

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MARYLAND

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
GERALD JOHNSON, et al.,) **CRIMINAL NO.:** JKB-16-0363
Defendant.) **Jury Trial:** Volume 9
_____)

Transcript of Proceedings
Before the Honorable James K. Bredar
Wednesday, December 6th, 2017
Baltimore, Maryland

For the Plaintiff:

Peter J. Martinez, AUSA

Christina A. Hoffman, AUSA

For Defendant Gerald Johnson:

Paul F. Enzinna, Esquire

Jeffrey B. O'Toole, Esquire

For Defendant Kenneth Jones:

Alan R.L. Bussard, Esquire

For Defendant Marquise McCants:

John R. Francomano, III, Esquire

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P R O C E E D I N G S

THE COURT: Good morning. Are we ready for the jury?

MR. MARTINEZ: We are, Your Honor.

MR. FRANCOMANO: Yes, Your Honor.

THE COURT: Bring them in. Who's our witness?

MR. MARTINEZ: Sergeant Jackson from the Baltimore Police.

THE COURT: From where?

MR. MARTINEZ: BPD.

(Jury entered the courtroom.)

THE COURT: Be seated, please. Good morning, ladies and gentlemen.

JURORS: Good morning.

THE COURT: Let the record reflect we actually started court before 9:45 this morning. I know you noticed, that's why I'm acknowledging that we noticed.

Mr. Martinez, government may call the next witness.

MR. MARTINEZ: Your Honor, the government calls Sergeant Glen Jackson of the Baltimore Police.

THE COURT: Please swear the witness.

THE CLERK: Sir, if you would please raise your right hand to be placed under oath.

SERGEANT GLEN JACKSON,

1 called as a witness, being first duly sworn, was examined and
2 testified as follows:

3 THE WITNESS: I do.

4 THE CLERK: Thank you, sir. You may enter the
5 witness box and watch your step. And if you would please
6 speak into the microphone, you can adjust the microphone if
7 you need to. Tell us your name and can you please spell your
8 first and last name for the record.

9 THE WITNESS: Glen Jackson, G-l-e-n,
10 J-a-c-k-s-o-n.

11 THE CLERK: Thank you, sir.

12 THE COURT: Sir, would you slide your chair a little
13 bit forward there just to keep you positioned right in front
14 of that microphone. Thank you very much.

15 Your witness, Mr. Martinez.

16 DIRECT EXAMINATION

17 BY MR. MARTINEZ:

18 Q Sergeant, good morning.

19 A Good morning.

20 Q Can you tell the ladies and gentlemen of the jury where
21 you work?

22 A Baltimore City Police Department.

23 Q What is your rank and assignment?

24 A Sergeant and I'm currently in internal affairs
25 division.

1 Q How long have you been with the
2 Baltimore City Police Department?

3 A 21 years.

4 Q Could you walk us briefly through the various positions
5 you've held over your 21 years?

6 A Patrol division, I was in a bike unit, I then went to the
7 district detective unit, from there internal affairs, got
8 promoted in '16, went back to patrol, and I'm currently back
9 in internal affairs.

10 Q Sergeant, could you tell us what your rank and assignment
11 was as of the spring of 2013?

12 A Detective.

13 Q I want to direct your attention to March and April of
14 2013. During that time period, Sergeant, were you the primary
15 investigator of a robbery and shooting that occurred near the
16 intersection of Greenmount and 25th?

17 A Yes, I was.

18 Q Do you recall the date of that robbery and shooting?

19 A March the 23rd, I believe, 2013.

20 Q I want to show you Government's Exhibit GM 10. And I'll
21 ask you if you could, Sergeant, if you could use the touch
22 screen to your left there and show the ladies and gentlemen of
23 the jury the scene of the robbery and shooting on
24 March 23rd, 2013.

25 A It would be in this section right here, if you can see

1 it, that point.

2 THE COURT: Are you touching the screen?

3 THE WITNESS: Yes, sir. I put a pink dot, purple
4 dot on the screen.

5 THE COURT: Okay. You have a light touch. Little
6 bit bigger mark. Okay. Thank you.

7 Q (BY MR. MARTINEZ) Sergeant, were you able to identify
8 the victim of the March 23rd, 2013 robbery and shooting?

9 A Yes, we were.

10 Q Who was that?

11 A Mr. Moses Malone.

12 Q I'm going to show you what's been marked
13 Government's PHI 54. Who is that, Sergeant?

14 A Mr. Malone.

15 Q Did there come a time where you and -- where you met with
16 Mr. Malone at the Baltimore Police Department Eastern District
17 Detective Unit?

18 A Yes.

19 Q Do you recall when that meeting took place?

20 A I believe April the 19th of 2013.

21 Q And during the initial portion of your interview,
22 Sergeant, could you tell us whether or not Mr. Malone was
23 cooperative?

24 A Uncooperative.

25 Q Was he willing or unwilling to answer questions?

1 A Unwilling.

2 Q Was he willing or unwilling during the initial part of
3 the interview to complete photo arrays?

4 A Unwilling.

5 Q Did there come a point in time during the April 19th
6 interview where you were joined by another police officer?

7 A Yes.

8 Q Who was that?

9 A Detective Dawnyell Taylor.

10 Q And what part of BPD does she work for?

11 A She works for the homicide division.

12 Q Can you tell us whether Malone's willingness to
13 cooperate, did it change after Detective Taylor joined the
14 interview?

15 A Yes, it did.

16 Q Did Mr. Malone eventually agree to give a statement about
17 the robbery and shooting that happened at Greenmount and 25th
18 on March 23rd, 2015?

19 A Yes, he did.

20 Q Did he explain how the robbery happened?

21 A Yes.

22 Q What did he say?

23 A Said he was sitting on some steps in the 2400 block of
24 Greenmount Avenue when two gentleman came out of an alley
25 wearing black hoodies or dark colored hoodies and told him

1 "you know what time it is?"

2 Q Did Mr. Malone say what, if anything, the two gentleman
3 with the hoodies took from him?

4 A Cell phone and I believe \$3 in currency.

5 Q Did Mr. Malone say what happened after the two guys in
6 the hoodies took his cell phone and his money?

7 A He explained he attempted to walk across the street away
8 from them and that's when he was shot in the foot.

9 Q Sergeant, during the portion of the interview that began
10 after Malone became cooperative and gave you a statement, did
11 you show Mr. Malone any photo arrays?

12 A Yes, I did.

13 Q I want to show you Government's Exhibit PHA 10. Do you
14 recognize this exhibit, Sergeant?

15 A Yes, I do.

16 Q I want to walk through the document briefly with you.
17 See where we're looking here: central complaint number, type
18 of investigation, location and name of viewer. Whose
19 handwriting is in these fields?

20 A That's mine.

21 Q And then in the next box here, it begins with the
22 language "the six photographs," were those instructions read
23 to Mr. Malone before he completed the photo array?

24 A Yes, they were.

25 Q And here next to viewer's initials, whose initials are

1 those?

2 A Mr. Malone's initials.

3 Q I'm going to come back to the bottom part of page 1 in a
4 moment. Now, I want to ask you whether in this array, did
5 Mr. Malone pick anyone out in this array?

6 A Yes, the person in photo No. 4.

7 Q And who is the person in photo No. 4?

8 A I believe Mr. Norman Handy.

9 Q Is that Mr. Malone's handwriting above photo No. 4?

10 A Yes, it is.

11 Q I want to go back to the bottom portion of page 1 of
12 PHA 10. In the comments field here, whose handwriting is this
13 towards the top of the document?

14 A Mr. Malone's handwriting.

15 Q And is this his signature above the diagonal line?

16 A Yes, it is.

17 Q And whose signature is in the bottom right-hand corner?

18 A Detective Taylor.

19 Q Could you read for the ladies and gentlemen of the jury
20 the information that Mr. Malone provided in the comments
21 section of PHA 10?

22 A Yes. "Photo No. 4 was the one that robbed me and tried
23 to take me out on a shirt. They smacked me, took my phone and
24 money, was tussling with him, and that's when he said 'you
25 going to run?' then I said, 'hell, no,' and that's when I

1 walked across the street and that's when he busted at me left
2 foot, fucked up but grazed it, .38 mm."

3 Q Sergeant, when you showed this photo array to Mr. Malone,
4 did you make any suggestions as to who he should pick out?

5 A No, I didn't.

6 Q Did you make any suggestions as to what he should say in
7 the comments field?

8 A No, I didn't.

9 Q Did Mr. Malone complete the array freely and
10 voluntarily?

11 A Yes, he did.

12 Q In addition to the exhibit we just looked at, PHA 10, did
13 Mr. Malone complete a second photo array during the interview
14 on April 19th, 2013?

15 A Yes.

16 MR. ENZINNA: Your Honor, objection.

17 THE COURT: Objection.

18 MR. ENZINNA: Can we approach?

19 THE COURT: You may.

20 (Bench conference on the record.)

21 MR. ENZINNA: Your Honor, I believe this is the
22 photo array where Mr. Malone identified Mr. Johnson, and I
23 think he states in the comments section something to the
24 effect that "Mr. Johnson got ranked, so I'm guessing he sent
25 them at me." I object to that on grounds that it's hearsay,

1 it's not personal knowledge.

2 THE COURT: What's the government's position?

3 MR. MARTINEZ: This was litigated before the trial
4 began. Ms. Hoffman filed a motion to admit Mr. Malone's
5 statements to law enforcement concerning the robbery and
6 shooting pursuant to the forfeiture by wrongdoing exception to
7 the rule against hearsay. And the Court granted that motion.
8 So that would include the recorded statement, the whereabouts,
9 as well as the IDs that he made in the photo arrays.

10 THE COURT: Is that true?

11 MR. ENZINNA: Your Honor, as I understand the rule,
12 the forfeiture rule --

13 THE COURT: No, is it true that this has already
14 been ruled on?

15 MR. ENZINNA: Not this issue.

16 THE COURT: Okay. It's a different issue.

17 MR. ENZINNA: The forfeiture doctrine provides that
18 we -- that someone who commits a wrong by excluding that
19 witness's evidence. So basically what the forfeiture doctrine
20 does is, it says you treat it as though the witness were
21 available to testify. It doesn't permit the witness to
22 testify -- that he is not able to testify. If he were here,
23 he could say --

24 THE COURT: So you're saying it's hearsay within
25 hearsay.

1 MR. ENZINNA: And I'm also saying there's no
2 personal knowledge.

3 THE COURT: All right. So the statement from
4 Malone -- so you've got Malone on the witness stand at this
5 point. He's not dead, instead he's here present and he's
6 testifying and he's prepared to say "He got ranked." What is
7 that, what would that mean?

8 MR. MARTINEZ: He got ranked in BGF.

9 THE COURT: Ranked.

10 MR. MARTINEZ: Within BGF and he does say --

11 THE COURT: He got outranked, he got told by --

12 MR. MARTINEZ: No, Mr. Johnson got ranked, he
13 obtained a rank.

14 THE COURT: Oh. "He got ranked." So okay. This is
15 a statement that accompanied the ID identification of
16 Mr. Johnson: "So I'm guessing he sent them at me. Plus, last
17 night somebody told me to watch out because I have some" --

18 MR. MARTINEZ: "Stacks."

19 THE COURT: -- "stacks on me." Well, what's -- on
20 what premise does he identify Mr. Johnson, what has he asked?
21 The photo array is put in front of him and what, do you
22 recognize anybody, or?

23 MR. MARTINEZ: The interview during which the array
24 was shown to him will be played through the -- but what
25 happened, as the detective explained a moment ago, Mr. Malone

1 originally wasn't cooperative, wouldn't complete the arrays.
2 Detective Taylor joins the interview and he does complete the
3 arrays. And during the recorded portion, Taylor has him walk
4 through the robbery and he mentions that he was already
5 receiving threats from BGF and there was a point -- he
6 attributed that to Mr. Johnson.

7 THE COURT: Hold on, let him finish.

8 MR. ENZINNA: I apologize.

9 THE COURT: So he attributed the threats to
10 Mr. Johnson.

11 MR. MARTINEZ: Yes.

12 MS. HOFFMAN: He did have -- he knew Mr. Johnson
13 from the neighborhood. He did have --

14 THE COURT: That came out in the interview with the
15 police officers?

16 MS. HOFFMAN: Yes, and he knew he was in BGF and
17 that he had rank in the gang. If he were here today, we would
18 be able to develop the foundation for this statement to come
19 in. He's not here because the defendants killed him.

20 THE COURT: Yes, I understand, but I have to be
21 persuaded that that in fact could happen before I can admit it
22 under the wrongful procurement doctrine. Otherwise, I'm just
23 speculating. So let's see -- what -- that's why I asked, what
24 did he tell the police officers, what did he tell them?

25 MR. MARTINEZ: Your Honor actually has -- I think

1 Mr. Enzinna was about to get to the --

2 MR. ENZINNA: This is a description of the
3 interview. As I read it, he does not mention Mr. Johnson when
4 they show him the photo array.

5 THE COURT: Okay. But when they do show him a photo
6 array, he reacts to that.

7 MR. ENZINNA: Yes.

8 THE COURT: And his reaction is?

9 MR. ENZINNA: He wrote those comments: I'm guessing
10 that Mr. Johnson sent them to rob me.

11 MR. MARTINEZ: Could I see your copy, Mr. Enzinna?

12 THE COURT: Based on the evidence that's already
13 been presented during the life of this case where the Court
14 has made the threshold determinations about why Mr. Malone is
15 not here and who's responsible for that, I think the
16 government gets some latitude in this regard. And I'm going
17 to admit it. The officer will be subject to
18 cross-examination, including on the point that "I'm guessing,"
19 which is the most problematic aspect of this statement. But
20 you know, we're going to put it out there as best we can, as
21 though Mr. Malone is actually here.

22 The "I'm guessing," for the record, the Court's
23 interpretation of that is not that it is a pure guess, but it
24 is a statement that was more along the lines of surmising,
25 which is not a guess. A surmising is rooted in a totality of

1 information that he has that is based on his general knowledge
2 of people in the neighborhood, what their different roles and
3 functions are and so forth. So it comes in.

4 MR. ENZINNA: Thank you.

5 (The following proceedings were had in open court.)

6 THE COURT: Overruled. You may continue.

7 Q (BY MR. MARTINEZ) Sergeant, before the bench conference,
8 I was putting on the screen here Government's Exhibit PHA 11.
9 And you had just explained to the ladies and gentlemen of the
10 jury that during the interview you had with Moses Malone on
11 April 19th, 2013, you showed him a second photo array. Do you
12 remember that?

13 A Yes.

14 Q So let's run quickly through the same kinds of questions
15 I just asked you. In the top portion of the document here,
16 the complaint number and name of viewer, et cetera, is that
17 your handwriting?

18 A Yes, it is.

19 Q And the instructions beneath it, were those read to
20 Mr. Malone?

21 A Yes, they were.

22 Q Are those his initials in the bottom right-hand corner?

23 A Yes.

24 Q And again, we'll come back to the bottom half of page 1
25 in a moment. Now I'd like to ask you whether Mr. Malone

1 identified any of the six individuals depicted in this array.

2 A Yes, he did. Photo No. 2.

3 Q No. 2, you said?

4 A Yes.

5 Q Is that his handwriting above No. 2?

6 A Yes, it is.

7 Q Who's depicted in photo No. 2?

8 A Mr. Gerald Johnson.

9 Q Do you see Mr. Gerald Johnson in the courtroom today?

10 A Yes, I do.

11 Q Could you identify him and point out an article of
12 clothing he's wearing, please?

13 A A plaid shirt at the defense table.

14 THE COURT: Record will reflect the witness has
15 identified the Defendant Johnson.

16 Q (BY MR. MARTINEZ) Sergeant, I want to go back to page 1
17 of Government's PHA 11. On the first four or five lines
18 there, whose handwriting is that?

19 A Mr. Malone.

20 Q And then the signature above the diagonal line, is that
21 Mr. Malone's?

22 A Yes.

23 Q And then I believe you told us earlier that the signature
24 on the bottom right-hand corner where we looked at a similar
25 signature, is that Detective Taylor?

1 A Yes.

2 Q All right. I'm going to zoom in a little more. Can you
3 see that, Sergeant?

4 A Yes, I can.

5 Q Could you please read those five lines for the ladies and
6 gentlemen of the jury?

7 A "He got ranked, so I'm guessing he sent them at me.
8 Plus, last night somebody told me to watch out 'cuz I had some
9 stacks on me head and said he died by summertime, BGF."

10 Q Sergeant, with respect to this photo array,
11 Government's PHA 11, did you make any suggestions to Mr.
12 Malone as to who he should pick out?

13 A No.

14 Q Did anyone make any suggestions as to what he should
15 write in the comments field?

16 A No.

17 Q Did he complete the photo array freely and voluntarily?

18 A Yes, he did.

19 Q Was your interview with Mr. Malone on April 19th of 2013,
20 was it recorded, Sergeant?

21 A Yes, it was.

22 Q I want to approach, show you Government's Exhibit CD 8.
23 Do you recognize that exhibit, Sergeant?

24 A Yes.

25 Q What is it?

1 A A CD, a recorded statement.

2 Q And the recorded statement from April 19th, 2013?

3 A Yes.

4 Q Have you listened to the contents of CD 8 before coming
5 to court today?

6 A Yes.

7 MR. MARTINEZ: Your Honor, with the Court's
8 permission, I would like to play CD 8 for the jury. We have
9 transcripts prepared that were not included in the binders
10 distributed originally, so I would ask for Ms. Powell's help
11 in distributing the transcripts to the jury.

12 THE COURT: Without objection.

13 MR. ENZINNA: No, Your Honor.

14 THE COURT: Distribute the transcripts, please,
15 Ms. Powell.

16 (Audio played.)

17 THE COURT: Ladies and gentlemen, you can tuck these
18 transcripts into the little pocket in the front cover of your
19 transcript book. Close up your transcript books and when
20 everyone's got that accomplished we'll move ahead. And
21 Ms. Powell, there's one stray transcript because there was one
22 too many, we can collect that from the jury rail.

23 Mr. Martinez.

24 MR. MARTINEZ: Thank you.

25 Q (BY MR. MARTINEZ) Sergeant, based on the interview that

1 we just listened to as well as the photo arrays that were
2 completed, did there come a time where you got an arrest
3 warrant for anyone in connection with the robbery and shooting
4 of Moses Malone?

5 A Yes.

6 Q Who did you get an arrest warrant for?

7 A Mr. Norman Handy.

8 Q Did you later learn that Mr. Handy had been arrested?

9 A Yes.

10 Q Do you know where he was arrested?

11 A 2466 Greenmount.

12 Q I'm going to show you Government's Exhibit GM 36. Can
13 you tell us what we're looking at there, Sergeant?

14 A 2400 block of Greenmount and 2466 Greenmount, the corner
15 house by the alley.

16 Q Can you just put a mark on the front door?

17 A (Indicating.)

18 Q After Mr. Handy was arrested, Sergeant, did there come a
19 time where you got a search warrant for this house at
20 2466 Greenmount?

21 A Yes.

22 Q Why did you apply for a search warrant for that house?

23 A In attempts to locate the weapon that was used in this
24 incident.

25 Q I'm going to show you now what's marked as

1 Government's Exhibit SW 1. Sergeant, do you recognize this
2 document?

3 A Yes, I do.

4 Q What is it?

5 A A search and seizure warrant.

6 Q What's the address here?

7 A 2466 Greenmount Avenue.

8 Q And at the bottom here where it says "signature of
9 affiant and official rank," whose signature is that?

10 A Mine.

11 Q And is this the date here when these materials were sworn
12 and signed to?

13 A Yes.

14 Q Let's go to the second page of SW 1. Can you tell us the
15 date on which the judge signed this sworn affidavit?

16 A April the 20th, 2013.

17 Q And I now want to go through with you, on page 3 do you
18 see where it begins at the top "affidavit"?

19 A Yes.

20 Q Who is the author, Sergeant, of this section?

21 A I was.

22 Q And what's the purpose of this section in the search
23 warrant application, what are you trying to do there?

24 A To establish probable cause in attempts to get the
25 warrant approved.

1 Q All right. And can you summarize -- there's four
2 paragraphs here and then on the following page there's a few
3 more. Can you summarize what you said in this section
4 regarding your investigation of the robbery and shooting of
5 Moses Malone?

6 A The facts of how the incident occurred and what took
7 place and what was presented to us by Mr. Malone, the
8 victim.

9 Q And so did -- in terms of what was presented by
10 Mr. Malone, the victim, were there statements in here
11 indicating that Mr. Malone had been interviewed by
12 Detective Jackson and Detective Taylor?

13 A Yes.

14 Q So here, for example, Detectives Dawnyell Taylor and
15 Jackson interviewed Mr. Malone at which time he gave a taped
16 statement indicating that he was approached by two black
17 suspects near the 2400 block of Greenmount Avenue; correct?

18 A Yes.

19 Q And then on the following page here, on the top
20 paragraph -- I'm sorry. Does this contain information
21 regarding the photo array that Mr. Malone completed in which
22 he identified Norman Handy?

23 A Yes, it does.

24 Q And then in the last paragraph, does this explain the
25 circumstances under which Mr. Handy was arrested and where the

1 arrest took place?

2 A Yes.

3 Q And then lastly, you said the location of the dwelling,
4 2466 Greenmount, is a known Black Guerilla Family territory?

5 A Yes.

6 Q Was that true, Sergeant?

7 A Yes.

8 Q Did there come a time after this warrant was signed on
9 April 20th, did you execute the warrant and search
10 2466 Greenmount?

11 A Yes, I did.

12 Q Did the search uncover anything that was helpful to your
13 investigation?

14 A No, it did not.

15 Q I'm going to show you now the last page of SW 1 where it
16 says "return." Sergeant, could you read that paragraph to the
17 jury?

18 A Yes. "I received attached search warrant on
19 April 20th, 2013 and have executed it as follows: On
20 April 20th, 2013 at 10:42 p.m., I searched the premises
21 described in the warrant and I left a copy of the warrant
22 containing the inventory with on the kitchen table."

23 Q So if I understand that correctly, Sergeant, were you
24 stating there that you left all of Government's SW 1 on the
25 kitchen table inside 2466 Greenmount after the search was

1 completed?

2 A Yes.

3 Q And did that include the affidavit that we reviewed on
4 pages 3 and 4 of SW 1?

5 A Yes.

6 Q And was that the affidavit that included the information
7 about Moses Malone providing a statement and identifying
8 Norman Handy?

9 A Yes, it did.

10 MR. MARTINEZ: Court's indulgence.

11 Q (BY MR. MARTINEZ) Detective Jackson, if you could
12 have -- if you could go back and do the search -- the
13 execution of the search differently at 2466 Greenmount, would
14 you have left the search warrant at the house?

15 A No, I wouldn't.

16 Q Why not?

17 A Because I learned later on that you don't -- that things
18 change, the policy changes based on the different events. I
19 was a fairly new detective at the time for shootings. I was a
20 robbery detective and that was the protocol during robberies,
21 that you have to leave a copy of the warrant. So I later
22 learned that it's different when it comes to shootings.

23 Q Thank you, Detective.

24 MR. MARTINEZ: No further questions.

25 THE COURT: Mr. Enzinna, cross-examination.

1 MR. ENZINNA: Very briefly.

2 CROSS-EXAMINATION

3 BY MR. ENZINNA:

4 Q Good morning, Sergeant Jackson.

5 A Good morning, sir.

6 Q That's correct; isn't it sergeant?

7 A Yes.

8 Q Thank you. I'm Paul Enzinna, I represent Gerald Johnson
9 in this matter. The tape that was played before of the
10 interview between Mr. Malone and Detective Taylor, you were
11 present for that; correct?

12 A Yes.

13 Q And you were present prior to that; correct?

14 A Yes.

15 Q In fact, it indicates in here that Mr. Malone was shown
16 the photographic arrays prior to the tape being made?

17 A Yes.

18 Q And you showed him the arrays?

19 A Yes.

20 Q I want to talk briefly about Government Exhibit PHA 11,
21 which you looked at earlier. Now, Mr. Malone wrote here --
22 this is the photographic array where Mr. Malone identified
23 Mr. Johnson; correct?

24 A Right. Yes.

25 Q And then on the backside in the comments section he

1 wrote, "He got ranked, so I'm guessing he sent them at me."

2 See that?

3 A Yes.

4 Q So when Mr. Malone wrote this, he was guessing;
5 correct?

6 A That's just his statement.

7 Q Okay. Did he give you information, factual information
8 that indicated that Mr. Johnson had sent these people to rob
9 him?

10 A No, just what you heard on the tape.

11 Q Okay. Now, he talked in a number of places about other
12 events that occurred here, beyond the -- well, first of all,
13 he said there were two people who robbed him; correct?

14 A Yes.

15 Q And he identified one of them?

16 A Yes.

17 Q And couldn't identify the other one?

18 A Correct.

19 Q He never indicated that that second person was
20 Mr. Johnson, did he?

21 A No, he didn't.

22 Q And he also talked about people saying things to him and
23 getting in scuffles with people?

24 A Yes, he did.

25 Q After the robbery?

1 A Right.

2 Q And he never indicated that Mr. Johnson was one of those
3 people, did he?

4 A No, he didn't.

5 MR. ENZINNA: Thank you, Sergeant. Nothing
6 further.

7 THE COURT: Mr. Bussard.

8 MR. BUSSARD: Just very briefly, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. BUSSARD:

11 Q Good morning, Sergeant.

12 A Good morning, sir.

13 Q You had occasion to interview Mr. Malone and you were
14 present when he did the -- when he looked at the photo arrays;
15 is that correct?

16 A Correct.

17 Q And I'm showing you what's been admitted into evidence as
18 Government's Exhibit PA 10. Let me pull it back a little bit.
19 And is this the photo array that was shown to Mr. Malone?

20 A Yes.

21 Q And this is Mr. Malone's signature where my pen is?

22 A Yes, it is.

23 Q And the person depicted in the picture below his
24 signature is who?

25 A Mr. Norman Handy.

1 Q And based on your investigation, did you come to be aware
2 of whether Mr. Handy was related in any way to anyone else
3 associated with the Greenmount area?

4 A Not that I'm aware of.

5 Q And Mr. Handy was the person identified as the person
6 that shot Mr. Malone?

7 A Yes.

8 Q And robbed Mr. Malone?

9 A Yes.

10 Q Now, I just want to be clear, the government showed you
11 the search warrant and the affidavit.

12 A Yes.

13 Q It was not usual practice, it wasn't policy in the
14 Baltimore Police Department to leave the affidavit at the
15 scene of the search, was it?

16 A Well, in the search and seizure -- well, like I said, on
17 robberies I was -- I had a history of doing robbery
18 investigations, so policy was that you leave a copy of the
19 warrant at the location, this being a search, so that the
20 owner is aware of what took place as far as the search and
21 seizure was -- when the search and seizure was conducted. So
22 it is policy to leave a copy.

23 Q Is the application for the warrant and the affidavit that
24 you identified, is that part of the warrant that is left or is
25 the warrant a separate piece of paper?

1 A It's separate pieces of paper, but the -- as far as I'm
2 aware, the whole packet was left.

3 Q So Baltimore Police Department had a policy then, that
4 back in 2013, that even for robbery cases, that if
5 confidential information and names were divulged to law
6 enforcement, they were included in the documents left at the
7 scene of a search?

8 A No, they didn't have a policy of that.

9 Q But that's what happened here; is that correct?

10 A Yes, it is.

11 Q Okay.

12 MR. BUSSARD: I have no other questions.

13 THE COURT: Mr. Francomano.

14 MR. FRANCOMANO: No questions, Your Honor.

15 THE COURT: Redirect.

16 MR. MARTINEZ: None, Your Honor.

17 THE COURT: May the witness be excused, counsel?

18 MR. ENZINNA: Yes.

19 MR. MARTINEZ: Yes, Your Honor.

20 THE COURT: Sergeant, you're excused. You may
21 depart.

22 THE WITNESS: Thank you, sir.

23 THE COURT: Next witness.

24 MS. HOFFMAN: Government will call
25 Detective David Ciotti.

1 THE COURT: Spell the last name, please.

2 MS. HOFFMAN: C-i-o-t-t-i.

3 THE COURT: Detective Ciotti.

4 Please come forward, sir, all the way to the witness
5 box. Stand next to the American flag and face our clerk.

6 DETECTIVE DAVID CIOTTI
7 called as a witness, being first duly sworn, was examined and
8 testified as follows:

9 THE WITNESS: I do, ma'am.

10 THE CLERK: Thank you. You may have a seat in the
11 witness box and watch your step.

12 THE WITNESS: Good morning, sir.

13 THE CLERK: Please speak directly into the
14 microphone, state your first name and last name and spell your
15 first name and last name.

16 THE WITNESS: It's David, D-a-v-i-d; the last name
17 is Ciotti, C-i-o-t-t-i.

18 THE CLERK: Thank you.

19 THE COURT: Ms. Hoffman.

20 DIRECT EXAMINATION

21 BY MS. HOFFMAN:

22 Q Good morning, Detective Ciotti, where are you currently
23 employed?

24 A Baltimore City's Northern District, ma'am.

25 Q What is your rank and title?

1 A Police officer.

2 Q How long have you been with
3 Baltimore Police Department?

4 A Since March of 2006.

5 Q Can you walk us through the various positions you've held
6 with BPD?

7 A So I've been on foot patrol in the Southeast and the
8 Central. I did Western Patrol. I was in Western District
9 Violent Crime Impact Division, Eastern District Violent Crime
10 Impact Division, Northern District Patrol, and then I went
11 over to Lexington Market Drug Unit for a little bit, and I'm
12 currently in Northern District Patrol.

13 Q As of April of 2013, were you on uniform patrol in the
14 Northern District at this point?

15 A I was, ma'am.

16 Q And I want to direct your attention to the evening of
17 April 22nd of 2013. Were you working and on duty at that
18 time?

19 A Yes, ma'am.

20 Q Did there come a time when you were asked to assist with
21 a 911 call that came in?

22 A Yes, ma'am.

23 Q What were you asked to do?

24 A So I was sent over to 427 East 27th Street in reference
25 to someone that said that he thought people were trying to

1 kill him.

2 Q And did you respond to that location?

3 A I did, ma'am.

4 Q And did you locate the person who had called 911?

5 A I did, ma'am.

6 Q Going to show you Government's Exhibit No. GM, as in
7 Google maps, 2. Can you tell us what we're looking at here?

8 A Yes, ma'am. So this is the south side of the 400 block
9 of East 27th Street.

10 Q And can you point to where you located the individual who
11 had called 911?

12 THE COURT: If you just draw right on the screen.

13 A Oh, okay. So he was back there behind the building.

14 Q (BY MS. HOFFMAN) Okay. And did he identify himself?

15 A He did, ma'am.

16 Q Who was he?

17 A Moses Malone.

18 Q Did you speak to him?

19 A I did, ma'am.

20 Q And what did he tell you?

21 A So I had a conversation with him, he said that he was a
22 CI, and that he was afraid that people were trying to kill
23 him.

24 Q Did he elaborate on that?

25 A Yes. So he handed me a card with the detective's name

1 that he was a CI for. And I believed him because he seemed
2 very upset, you know, because initially I wasn't sure exactly
3 what was going on. It was kind of a weird call to get, but he
4 did seem genuinely concerned for his life. And then I knew
5 the people that he was talking about, so then I started making
6 phone calls to see what to do with it.

7 Q And by the people he was talking about, do you mean the
8 detectives who he was working for?

9 A Yes, ma'am.

10 Q Now, you said that he said -- he thought people were
11 trying to kill him. Did he say anything about who was trying
12 to kill him?

13 A He did specifically say that BGF was trying to kill
14 him.

15 Q Did you say BGF?

16 A Yes, the Black Guerilla Family.

17 Q You said you made telephone calls, what happened when you
18 made those calls?

19 A So essentially, I made a couple phone calls to a couple
20 different offices. Essentially, they instructed me to bring
21 Mr. Malone down to the Eastern District for processing.

22 Q Did you bring him down there for processing?

23 A I did, ma'am.

24 Q What happened when you got down to the
25 Eastern District?

1 A So we met with the detectives, we went over the whole
2 story because I had just a very tiny part of it, you know, so
3 I transported him over there. And then it was determined that
4 the witness relocation team was going to relocate him, but
5 they were going to take a little bit. So in the interim, he
6 hadn't eaten, so we went over to the McDonald's down the
7 street and we had -- I got him dinner because he hadn't
8 eaten.

9 Q Did the witness relocation unit eventually arrive?

10 A They did, ma'am.

11 Q And did they bring Mr. Malone into protective custody?

12 A Yes.

13 Q Did you later learn that Mr. Malone had been removed from
14 protective custody?

15 A I did.

16 MS. HOFFMAN: No further questions, thank you.

17 THE COURT: Mr. O'Toole.

18 MR. O'TOOLE: We have no questions.

19 THE COURT: Mr. Bussard.

20 MR. BUSSARD: No questions.

21 THE COURT: Mr. Francomano.

22 MR. FRANCOMANO: No questions, Your Honor.

23 THE COURT: May the witness be excused?

24 MR. FRANCOMANO: Yes, Your Honor.

25 THE WITNESS: Thank you.

1 THE COURT: Officer, you're excused, you may depart.
2 Next witness.

3 MR. MARTINEZ: Your Honor, the government calls
4 Harry Caesar.

5 Your Honor, I apologize for the delay, I was just
6 told -- Agent Christy told me it's going to be another minute.

7 (Pause in the proceedings.)

8 THE COURT: Please come forward, sir, all the way up
9 to the American flag. Stand there and face our clerk.

10 THE CLERK: And sir, if you would please raise your
11 right hand to be placed under oath.

12 HARRY CAESAR,
13 called as a witness, being first duly sworn, was examined and
14 testified as follows:

15 THE WITNESS: I do.

16 THE CLERK: You may have a seat in the witness box,
17 sir, and watch your step. And if you would please speak
18 directly into the microphone, you can adjust the microphone if
19 you need to. Please state your first and last name and spell
20 your first and last name.

21 THE WITNESS: First name Harry, H-a-r-r-y; last name
22 Caesar, C-a-e-s-a-r.

23 THE CLERK: Thank you, sir.

24 THE COURT: And Mr. Caesar, if you would slide your
25 chair up, pull that microphone down just an inch or two.

1 Your witness, Mr. Martinez.

2 DIRECT EXAMINATION

3 BY MR. MARTINEZ:

4 Q Mr. Caesar, good morning, sir.

5 A Good morning.

6 Q Can you please tell the ladies and gentlemen of the jury
7 how old you are?

8 A 40.

9 Q Where are you from?

10 A Baltimore City, Maryland.

11 Q Where in Baltimore City did you grow up?

12 A All around because I grew up as an orphan.

13 Q Do you go by any nicknames?

14 A Black Man or Man.

15 Q Mr. Caesar, are you familiar with an organization called
16 the Black Guerilla Family or BGF?

17 A Yes, sir.

18 Q Can you tell us whether BGF is a gang?

19 A Well, now it's a gang, supposed to have been an
20 organization.

21 Q Do you know where BGF got started?

22 A Well, originally came from San Quentin, came over here,
23 came from Cambone and Ben to combine BGF.

24 Q You mentioned Cambone and Ben, what are Cambone and
25 Ben?

1 A Cambone supposed to been a political movement in
2 San Quentin and on the West Coast and then brought over here.
3 They formed Ben and Ben is considered making money to finance
4 the Cambone side, so both together became BGF.

5 Q I understand. Can you tell us whether BGF operates in
6 the prisons of Maryland?

7 A Yes, sir.

8 Q Can you tell us whether BGF operates on the streets of
9 Baltimore City?

10 A Yes, sir.

11 Q Were you affiliated with BGF at one point in time?

12 A Yes, sir.

13 Q Do you know what a fox is in the context of BGF?

14 A Yes, sir. Technically ain't supposed to be a fox,
15 supposed to be a log, but they -- somebody else added like a
16 fox lesson into it.

17 Q Tell us what a fox is.

18 A Fox is just nothing but a recruit or rookie before they
19 get their 22s or 33s --

20 Q Was there a --

21 A -- become a full member.

22 Q I'm sorry.

23 A Before they become a full member, you know, like a rookie
24 stage, a beginner, a prospect.

25 Q Was there a point in time when you were a fox?

1 A Correct.

2 Q Did you have to take an oath to become a fox?

3 A Yes.

4 Q Do you remember the full fox oath?

5 A Majority of it.

6 Q Can you recite for the jury the portions that you do
7 remember?

8 A We live silver fox by day, we live gorilla by night. We
9 live in the worst of hell holes, the coldest of pits. When we
10 rise -- I mean, we live in the coldest of pits. We live
11 underground. We live under sea. When we rise, who am I? And
12 the correct response is either say nothing or say mystery.

13 Q Mr. Caesar, before we get further into BGF, there are a
14 few questions I want to ask you. Do you have a prior felony
15 conviction?

16 A Yes, I do.

17 Q Did you plead guilty to attempted murder in 2002?

18 A Yes, sir.

19 Q Are you testifying today under any kind of cooperation
20 agreement with the government?

21 A No, sir.

22 Q Are you currently a defendant in any pending case?

23 A No, sir.

24 Q Dating back to July of 2016, have payments been made on
25 your behalf by the ATF?

1 A Only payments ever been paid to me, not directly, it was
2 indirectly for housing and location.

3 Q You mentioned location, during the 2016 time period,
4 Mr. Caesar, did you have to be relocated from
5 Baltimore City?

6 A Yes, sir.

7 Q Why did you have to be relocated?

8 A For safety reasons.

9 Q Could you tell us more about that?

10 A For, you know, safety reasons for -- I won't be killed or
11 any bodily harm permanently or anything like that, due to the
12 infiltration of me into BGF.

13 Q So you mentioned you had safety concerns and you were
14 worried about bodily harm, was there any relationship between
15 those safety concerns and the fact that you are testifying
16 here today?

17 A It's always safety concerns dealing with an organization
18 when I was the infiltrate; death, bodily harm, or anybody
19 close to me could be killed because of the simple fact of the
20 track record of BGF and the laws of the BGF. If you piddle
21 talk or talk J business outside, that you could be sanctioned
22 and part of the sanction is killing.

23 Q I understand. Do you know how much money the ATF spent
24 on relocation and housing and those kinds of things on your
25 behalf?

1 A No, not the exact amount, sir.

2 Q So you mentioned a moment ago that you have a 2002
3 conviction for attempted murder; is that correct?

4 A Well, I was locked up in 2001, but I guess the plea out
5 the conviction was 2002.

6 Q Okay. How long was your sentence for the attempted
7 murder conviction?

8 A It was broken down to 20 years; eight suspended, all but
9 12, and 3 years probation, 12 years.

10 Q And in what facilities did you serve that sentence,
11 Mr. Caesar?

12 A I was moved multiple times from the penitentiary, WCI,
13 ECI East, ECI West, because the ECI split into two different
14 prisons. I was at MCIJ. I was at pretty much everywhere but
15 North Branch. I was down in Supermax.

16 Q While you were serving that attempted murder sentence in
17 all the different jails you just mentioned, Mr. Caesar, did
18 you meet any members of BGF?

19 A Pretty much majority, yeah, because that's all was --
20 pretty much inside the system. If you're going to be part of
21 an organization, either it's going to be BGF or Bloods or
22 Crips.

23 Q Did there come a time where you met a BGF member named
24 Woo?

25 A Yes, sir.

1 Q I want to come back to Woo in a moment, but now I want to
2 ask you about the kinds of activities that BGF was engaged in
3 in Maryland's prisons. What kinds of things did BGF do in the
4 jails of Maryland?

5 A Everything from selling drugs, extortion, robbing people,
6 bringing horses in. If you don't know what horse is, a CO
7 that's going to bring in and transport cell phones, drugs,
8 anything else. At one point they brought a gun in the
9 penitentiary.

10 Q When was that, Mr. Caesar?

11 A I think that was around like 2003, 2004. I don't know
12 the exact date, but it was a gun at one time that was brought
13 into one of the prison systems.

14 Q What facility were you in at that point?

15 A At that time I believe I was out WCI.

16 Q Can you tell us when your sentence for the attempted
17 murder conviction ended?

18 A I came home in 2010, but I still had three years
19 probation. So technically, you know what I mean, 2013.

20 Q I understand. And when you said you came home in 2010,
21 where was home?

22 A At that time Northeast Baltimore.

23 Q Did there come a time shortly after you came home when
24 you moved to the west side of the city?

25 A Yes, sir.

1 Q Where on the west side were you living?

2 A North Avenue and Monroe.

3 Q When you moved to North and Monroe, did you know any BGF
4 members in the area?

5 A Yes. I known some of the ones I was locked up with and
6 especially Woo.

7 Q So you mentioned Woo earlier. You reconnected with Woo
8 in West Baltimore when you got out of jail?

9 A Correct.

10 Q And did there come a time when Woo introduced to you to
11 any of the other BGF members who were living on the west
12 side?

13 A At that time they didn't have a legitimate regime there,
14 was just a bunch of brothers, individuals selling drugs and
15 stuff. So I ended up meeting Uncle Perry, which was the
16 second in charge on the streets at that time for Double R,
17 which is Randy Russell, if I pronounced it right.

18 Q So you mentioned Uncle Perry, you said he was second in
19 charge of BGF on the streets at the time you were living in
20 West Baltimore?

21 A Correct.

22 Q Have you ever heard the term bushman, Mr. Caesar?

23 A Yes.

24 Q What's a bushman?

25 A Well, in the structure from -- you got your regular

1 so-called foxes, then you got your regular members, and then
2 you got your bushmen, is one that's oversee, pretty much like
3 a supervisor, somebody that's in charge. Then you got a
4 senior bush member, which is the people that are running the
5 streets like Double R, Uncle Perry.

6 Q Okay.

7 A Mike Gray, you know, people like that.

8 Q And you mentioned Mike Gray; is that correct?

9 A Uh-huh.

10 Q You told us earlier that you were a BGF fox at one point
11 in time, remember that?

12 A Correct.

13 Q And you said that you took an oath to become a fox?

14 A Correct.

15 Q Could you tell us who gave you the fox oath?

16 A Uncle Perry and Hot Rod.

17 Q Who's Hot Rod?

18 A He was another bush member that ended up being in charge
19 of East Baltimore, most of the East Baltimore regimes.

20 Q While you were a fox and living on the west side,
21 Mr. Caesar, did you ever do any work for Uncle Perry?

22 A Well, they made a special case in my case because they
23 knew I had prior like -- by my past being prior security and
24 stuff like that and I used to do executive protection work and
25 stuff and I dealt with the Nation of Islam. So I also done

1 work with celebrities and stuff, so I ended up being
2 Uncle Perry personal bodyguard and driver because at that time
3 he couldn't defend himself because he was currently shot, he
4 was in a wheelchair. So they needed somebody willing to
5 protect him at all times.

6 Q And in connection with that responsibility, as
7 Uncle Perry's security person, did you have to carry a gun
8 around with you?

9 A Correct.

10 Q How long did you work as security for Uncle Perry?

11 A Probably good like six months.

12 Q You also told us about a guy named Double R; right?

13 A Correct.

14 Q And Double R was also a member of BGF?

15 A He was what you call the gatekeeper, he was in charge of
16 the streets.

17 Q Was Double R also a bushman?

18 A He was a senior bushman.

19 Q Did you ever do work for Double R?

20 A Correct.

21 Q What kinds of things would you do for him?

22 A Whenever he call me up, either give him a ride somewhere
23 or if he need help with a certain situation.

24 Q So as you were going through the process of becoming a
25 fox, did you learn about BGF's rules?

1 A I was given the 22s and 33s, but then later during the
2 line, they said I was just a straight brother, straight
3 member, because of the position I held with Uncle Perry and
4 Double R. So therefore, they didn't want me to have -- and
5 didn't have to recite everything. Therefore, if they send me
6 out to do something, I can't be sanctioned because I don't
7 know that exact rule and responsibility. So I was in what you
8 call like a blackout stage, where if I would do something
9 wrong, it's not going to fall back. If I get sent to do
10 something that's against the rules, it won't come back on
11 me.

12 Q I understand. But did you also tell us that you did have
13 exposure to the rules for a period of time?

14 A Correct.

15 Q Is there a rule of the gang that addresses cooperating
16 with the police?

17 A Yup.

18 Q What does that rule say?

19 A No talking Jamaa business. Pretty much no talking Jamaa
20 business means pretty much if you're not a brother or a
21 sister, you don't speak amongst the 22 codes. The 33s, I
22 really never got involved with. But there is pretty much a
23 rule nobody state -- to say anything to the police unless
24 instructed.

25 Q I understand. So based on your experience as a fox and

1 your exposure to BGF, if one BGF member suspects or believes
2 that another member is cooperating with the police, how does
3 he go about determining whether that other member is, in fact,
4 cooperating?

5 A Well, completely about the situation, if somebody come up
6 to a brother on the corner and state this person is a rat,
7 this person is a snitch, they're going to ask where the
8 paperwork at on black and white. That supposed to have been
9 the procedures. And the procedures in that case goes to
10 whatever regime it is and it go through the chain of command
11 in the bubble. And the final say-so is going to come from the
12 C or -- the C. If it's something that's real serious, it got
13 to go to a bush member to make the final call.

14 Q So you mentioned paperwork and paperwork is one of the
15 ways in which you can figure out whether someone is
16 cooperating?

17 A Correct.

18 Q What kind of paperwork are you talking about?

19 A The same type of paperwork that will be filled out to the
20 public after this trial, that anybody can get access to,
21 witnesses or statements.

22 Q Oh, so are you saying that the transcript of your
23 testimony from today, for example?

24 A Correct.

25 Q When you were a fox in BGF, Mr. Caesar, did you learn

1 about how the gang is organized on Baltimore Streets?

2 A Yes, sir.

3 Q Do you know what a regime is?

4 A A regime is a neighborhood. And each neighborhood that
5 got BGF members in it, they got their own structure, so they
6 call it a regime. So then they go to the bubble. But every
7 brother is pretty much set in the neighborhood regime. Like
8 in this case, mostly Barclay and 22nd, all of them know how
9 many grew up together. So when BGF hit the street real hard,
10 all of them became BGF.

11 Q You mentioned the term "bubble," what's a bubble?

12 A A bubble is the command structure, as they try to use
13 like military, like structure as in you got your C, which is
14 your commander; your LTC, which is your lieutenant commander;
15 you got your MOJ; MOD; MOF, which is finance; you got your
16 secretary. Just the same as the structure of any type of
17 organization.

18 Q Let's go through some -- we don't have to go through all
19 of the positions, but just a few. And I want you to explain
20 your understanding to the jury in terms of what those
21 positions do. We'll start with the C or the commander, what
22 does he do?

23 A He's the overseer. He's in charge of that regime. That
24 means unless a bush member overrank him, that is his
25 responsibility and that's his regime. But he's not a bush

1 member, he's just in charge of that neighborhood.

2 Q How about the lieutenant commander or LTC, what does that
3 person do?

4 A He's the second in charge. When the C's not around, it's
5 his responsibility.

6 Q And the MOJ or the minister of justice?

7 A Minister of justice job is if there's a situation that
8 occurs, somebody need to be sanctioned, or let's -- in case of
9 a hit or somebody got to be sanctioned or dealt with, the MOJ
10 is responsible for carrying out them orders with the MOD, the
11 minister of defense.

12 Q Since you mentioned the minister of defense, what does he
13 do?

14 A Pretty much structured to -- how can I say it, plot and
15 if -- instruction, how to carry out the mission and bring the
16 people on that need to come and get them orders, they're from
17 the MOJ.

18 Q You mentioned a mission, what's a mission?

19 A If you got to go kill somebody, rob somebody, they try to
20 structure it as much as they can. If it's a known person that
21 they got to go get, if they know this person live here, but
22 they deal with a group of people, they plan out an attack, a
23 strategy how to get to them.

24 Q How about field marshal, what does the field marshal
25 do?

1 A Field marshal, from my understanding, when I dealt with
2 it, pretty much the ones I already spoke of because they had
3 other positions but nobody used them positions. So the field
4 marshal, I couldn't tell because I never met nobody that was
5 considered a field marshal.

6 Q Fair enough. So let's go back to the time you spent in
7 West Baltimore in 2010. You mentioned that you were doing
8 work for both Uncle Perry and Double R around that time;
9 right?

10 A Correct.

11 Q So during that time period, did there come a time when
12 you also began working with law enforcement as a confidential
13 informant?

14 A Well, I already been working alongside with a couple
15 detectives and there was a way in and I took advantage to that
16 way in.

17 Q So are you saying you were working as an informant before
18 you went to jail in 2002 or 2001 for attempted murder?

19 A Correct.

20 Q Okay. And based on that prior experience, did you have a
21 relationship with a detective named Geho?

22 A Yes, I did.

23 Q And so in 2010, when you began meeting these BGF members
24 in West Baltimore like Uncle Perry and Double R, can you tell
25 us whether you contacted Detective Geho about going to work as

1 an informant?

2 A Well, I was already assigned with Geho, and at that time
3 Geho said that they did know somebody that was running, you
4 know, running cases against BGF. And he assigned me with a
5 individual. And I was working with DEA and I ended up working
6 with -- alongside with the DEA at the time.

7 Q Did you become a registered informant for the DEA?

8 A Correct.

9 Q Were you paid by the DEA for working as an informant?

10 A If you want to call it paid, but not no money as people
11 think you would be getting money.

12 Q What do you mean by that?

13 A In other words, like maybe like gas expense or something
14 like that, because of the fact I had several vehicles that was
15 miked up and camera'd up when I was driving Double R and
16 Uncle Perry around. It was cameras and video, audio placed in
17 my vehicles.

18 Q So you're telling us the DEA put recording devices in the
19 cars you were using to drive BGF members around Baltimore; is
20 that right?

21 A Correct.

22 Q Did you do anything else, what other investigative kinds
23 of things did you do to help the DEA?

24 A On this case it was just the BGF.

25 Q Yes, sir.

1 A But then I went to city and other departments was, you
2 know, pretty much guns and drugs.

3 Q Well, I want to stay with the DEA BGF investigation. Did
4 you ever make phone calls that the DEA recorded?

5 A Correct. My phone was wiretapped as well as my car and
6 all of that.

7 Q Did there come a time when you stopped working as an
8 informant for the DEA?

9 A Correct.

10 Q Could you tell us why that happened?

11 A Because like any other organization, somebody always want
12 to be in the position that you is and they make up stories and
13 it was caught on a wiretap. And from that situation, they
14 felt though my life was in jeopardy, which though I just --
15 they wanted me out of the city and out of the state. But I
16 chose to stay because I was still able to prove that the
17 person was lying. Because the person that they said that saw
18 me down Central Booking -- was physically impossible. Because
19 when they brought the person to the person, it would have been
20 physically impossible. If you was down Central Booking with
21 me in '01, that mean you would have been seven years old.

22 Q All right. Let's take that answer piece by piece. So
23 you stopped working for the DEA as an informant because there
24 were rumors in the community about you; is that correct?

25 A Yeah. Somebody try to -- they really wanted the position

1 that I had. They know Uncle Perry and Double R, they try to
2 discredit it. But come to find out I was right, there was no
3 paperwork on it.

4 Q Okay. You say paperwork, are you saying that someone
5 within BGF at the time you were working there had put it out
6 there that you were an informant?

7 A Correct. Woo. Woo wanted the position I had. And he
8 made up a lie and said that somebody pulled him up, saying he
9 seen me talking to detectives back in '01 down Central
10 Booking. Like I said, it was physically impossible because
11 that person age, if you would take back that amount of time,
12 he would have been like 8, 9 years old. So everybody knew it
13 was a lie, it was physically impossible.

14 Q Well, so Woo might have been wrong about you talking to
15 that detective at Central Booking, but wasn't it correct that
16 you were also -- you were an informant for the DEA; correct?

17 A Not at that time.

18 Q No, I'm talking about 2010.

19 A Oh, 2010, yeah.

20 Q So --

21 A He was saying it was something that happened in '01.

22 Q Did the DEA tell you why they didn't want to use you as a
23 informant anymore?

24 A Because it came across on a phone conversation that when
25 Woo called, he actually called my phone and I passed my phone

1 to Double R. And he told Double R that somebody recognized me
2 as being an informant and working alongside with the police
3 back in '01. And like I said, math ain't add up.

4 Q Okay. But based on your conversations with the DEA, can
5 you tell us whether or not the DEA believed that your cover
6 had been blown?

7 A Well, they said they didn't want to take no chance.

8 Q Okay.

9 A And I chose to stay.

10 Q Let's fast forward to the spring of 2013. During that
11 time period did there come a time where you moved to the
12 Greenmount neighborhood of Baltimore?

13 A Correct.

14 Q Were you still a BGF fox at that point in time?

15 A Well, technically Uncle Perry and Double R said I was a
16 full member, but if you want to say fox --

17 Q Well, I want to be right. So tell us, what you were?

18 A At that time I was considered a full member.

19 Q Was there an active BGF Greenmount Regime when you moved
20 to the neighborhood in 2013?

21 A Yes, there was.

22 Q When you moved to the neighborhood, did you meet any
23 members of that regime?

24 A Correct.

25 Q Did you meet someone named Geezy?

1 A Yes.

2 Q Was Geezy a member of the BGF Greenmount Regime?

3 A He was the C of the Greenmount Regime.

4 Q Do you see Geezy in the courtroom today?

5 A Yeah, right there.

6 Q Could you point out an article of clothing he's wearing,
7 please?

8 A The colorful shirt with the glasses and the beard.

9 Q Did you meet someone named Slay?

10 A Yes, sir.

11 Q Do you see Slay in the courtroom today?

12 A Right there at the end.

13 Q Could you pick out an article of clothing he's wearing?

14 A White, green tie.

15 Q Was Slay in the BGF Greenmount Regime?

16 A The time I moved up there he was in prison, but he came
17 out later.

18 Q And did you learn whether or not he was in the regime?

19 A He was in the regime.

20 Q Did you meet anyone named Wes?

21 A Correct.

22 Q Was Wes in the BGF Greenmount Regime?

23 A Yup.

24 Q I'm going to show you Government's Exhibit PHI 9. Who's
25 that, Mr. Caesar?

1 A Mr. Wes.

2 Q Did you meet someone named Country?

3 A Correct.

4 Q Was Country in the BGF Greenmount Regime?

5 A Correct.

6 Q This is PHI 83, who's that, Mr. Caesar?

7 A Country.

8 Q Did you meet someone named Norman?

9 A Correct.

10 Q Was Norman in the Greenmount Regime?

11 A Correct.

12 Q This is Government's PHI 38, who's that, Mr. Caesar?

13 A That's Norman, which is Wes little brother.

14 Q They were brothers you say?

15 A Correct.

16 Q How about a person named Hood, did you meet Hood?

17 A Yes.

18 Q Was Hood in the regime?

19 A Yes.

20 Q This is Government's PHI 35, who's that?

21 A Hood.

22 Q Mr. Caesar, can you tell us whether members of the

23 BGF Greenmount Regime sold drugs while you were living in the

24 neighborhood in 2013?

25 A Yes.

1 Q Can you tell us whether members of the regime committed
2 robberies while you were living in the neighborhood?

3 A Yes.

4 Q Do you have personal knowledge regarding murders
5 committed by members of the Greenmount Regime?

6 A Only one, two -- two of them that I can speak of.

7 Q Do you have personal knowledge regarding shootings by
8 members of the Greenmount Regime?

9 A One of them, besides the two murders.

10 Q Do you have personal knowledge regarding the retaliation
11 against witnesses by members of the Greenmount Regime?

12 A One, Moses Malone.

13 Q Before we talk about Mr. Malone, I'd like you to tell us
14 where specifically you were living in the Greenmount
15 neighborhood in 2013?

16 A When I first moved in, was 2466.

17 Q Let me show you Government's Exhibit GM 36.

18 A Right there at the corner house, next to the little
19 parking thing because then it's a store. I had the third
20 floor back bedroom. It was -- the house was broken into rooms
21 for rent.

22 Q So you can use the screen to your left and actually touch
23 it and make a mark. Could you make a mark on the front door.

24 A This house right here. My back bedroom that I rented out
25 was right here, because only two rooms on the third floor.

1 Q And you were starting to tell us that the house is broken
2 into rooms for rent; is that right?

3 A Correct.

4 Q Was there a common area in the house?

5 A Well, besides the hallway you got the kitchen, the
6 kitchen -- the kitchen area is the kitchen/dining room area
7 and the one bathroom and then there was a back room.

8 Q Okay.

9 A Like a little like den type area.

10 Q Was there another BGF member who lived in this house at
11 2466?

12 A His name was Elliott Reed, Tech, that I allowed him and
13 his baby mama stay with me because they was going through
14 something at the time.

15 Q You said Elliott Reed was his government name?

16 A Right, nickname Tech.

17 Q And you said he and his girlfriend were living with
18 you?

19 A Correct.

20 Q Let me show you some pictures. This is
21 Government's Exhibit PHI 66. Who's that, Mr. Caesar?

22 A Elliott Reed, nickname Tech.

23 Q You said Tech was a member of BGF?

24 A Correct. He wasn't Greenmount Regime, he was
25 Park Heights Regime.

1 Q What part of town is Park Heights in?

2 A West Baltimore.

3 Q And there's a BGF regime in Park Heights; is that
4 right?

5 A About three regimes in Park Heights.

6 Q And Tech was a member of one of them?

7 A Correct.

8 Q What was -- you mentioned that Tech had a girlfriend that
9 was also living at 2466, do you remember what her name was?

10 A Only thing I know about, nickname Cookie.

11 Q Let me show you Government's PHI 75. Who's that?

12 A Cookie. But she had no relations and dealings with BGF
13 but Tech.

14 Q Mr. Caesar, when you were living in the Greenmount
15 neighborhood in 2013, can you tell us whether you were selling
16 drugs?

17 A Correct. To keep my cover.

18 Q What kind of drugs did you sell?

19 A Crack, cocaine.

20 Q Where did you sell drugs?

21 A Greenmount, 25th.

22 Q How close was your house, 2466, to Greenmount and 25th?

23 A Probably less than 20 yards.

24 Q Did you work together with anyone else to sell drugs in
25 the neighborhood?

1 A Elliott Reed, which is Tech.

2 Q So during this time period in 2013 when you're living in
3 Greenmount and selling drugs with Tech, did there come a time
4 where you met someone named Moses Malone?

5 A Correct.

6 Q Let me show you Government's Exhibit PHI 54. Who's
7 that?

8 A Moses Malone.

9 Q Did Mr. Moses Malone go by any nicknames?

10 A Mo.

11 Q Can you tell us whether Moses Malone was a member of a
12 gang?

13 A Well, he always claimed he was a Blood, but I had no
14 recollection. Anybody could say they anything, but I don't
15 have no dealings with them Bloods to actually know.

16 Q Did the Bloods have a presence anywhere near the
17 Greenmount neighborhood in 2013?

18 A Yes, they did.

19 Q What part of the neighborhood was the Bloods'
20 neighborhood?

21 A Everything that's -- if you coming up from North Avenue
22 up to Greenmount, once you cross over 25th Street, like 26th
23 on up to about 29th was Bloods and Muslims. There was a lot
24 of hustling and selling drugs. But they come over 25th, cross
25 that 25th line, they getting robbed and dealt with selling any

1 type of drugs.

2 Q Why would a Blood who wanted to sell drugs get robbed or
3 dealt with if they crossed 25th?

4 A People do stupid things chasing money.

5 Q Yeah, but what's -- I'm showing you a map here, can you
6 show us where -- this is GM 10, for the record. Can you show
7 us where 25th Street is?

8 A Right here.

9 Q You can make -- there you go. So if a Blood member were
10 to cross -- go down Greenmount Avenue and cross 25th and keep
11 going south, whose territory would he be in then?

12 A All that is BGF area right there.

13 Q Okay. What was the relationship between the Bloods and
14 BGF like when you were living --

15 A No relationship. They stayed their side. They can go
16 to -- either sides can go to the store without no conflict.
17 As long as nobody come on the other person's side selling
18 drugs or breaking any -- breaking law, they all right as they
19 passing through.

20 Q So let's go back to Moses Malone. Can you tell us
21 whether he sold drugs in the Greenmount neighborhood?

22 A Correct.

23 Q Did you ever see him selling drugs?

24 A Just weed. Nickel, dime bags of weed.

25 Q I want to direct your attention to the spring of 2013.

1 Did there come a time where you learned that Moses Malone owed
2 Tech some money?

3 A Well, Tech said he owed him some money and he thought
4 Moses Malone -- Moses was delaying him. And so that's when he
5 went and pretty much got Norman and whoever else Norman was
6 with to go rob him and dig in his pockets. That's when he
7 ended up getting shot the first time, off a ricochet.

8 Q Okay. So you said Tech sent Norman and somebody else to
9 rob Mr. Malone; is that right?

10 A Correct.

11 Q Did you talk to Mr. Malone about what happened to him,
12 did that robbery -- did you learn about it from Mr. Malone?

13 A Well, when I learned what happened, when I came home, I
14 guess Mo's bike was on my steps, but the police had my --
15 because it happened in the back of my alleyway, they had my --
16 you know, tape all around my -- where I stayed at. So when
17 people came and told me what happened, the police at the time
18 didn't know who they -- got shot. All they had was a report
19 that somebody got shot. Because one of the police officers
20 was talking to me on the steps, and once I did my further
21 investigation, it was Moses Malone. So at that point I went
22 and got in contact with Detective Taylor.

23 Q Let me stop you for a second, Mr. Caesar, because there's
24 a lot of information in there. You mentioned you did some
25 investigation. After the robbery and shooting took place, did

1 you talk to Mr. Malone about what happened to him?

2 A I got physically in contact with him two days -- about
3 two days later, couple days later. So -- but people already
4 told me that it was Mo.

5 Q Yeah. What did Mo tell you himself about what had
6 happened?

7 MR. ENZINNA: Objection.

8 MR. BUSSARD: Objection, Your Honor.

9 THE COURT: You can approach.

10 (Bench conference on the record.)

11 THE COURT: Mo's dead and the Court's already found,
12 for purposes of this evidentiary issue, that there's
13 sufficient cause to conclude that your clients are culpable
14 for that. So what's the objection?

15 MR. ENZINNA: The objection is that if Mo -- if Mo
16 were here, he could testify to this. If there were
17 out-of-court statements by Malone to this effect, they could
18 come in under the forfeiture doctrine. But what's happening
19 now is that Mr. Caesar is testifying to what he was told by
20 Mr. Malone outside the courtroom. That is hearsay not in
21 furtherance because Mr. Malone was not a member of the
22 conspiracy.

23 THE COURT: Yes. But the justification for allowing
24 Mr. Caesar to testify was that if he doesn't testify, then how
25 does the dead man's story get told? He knows the dead man's

1 story, the dead man told him, so why isn't this exactly right
2 in the wheelhouse of the forfeiture doctrine?

3 MR. ENZINNA: The forfeiture -- because if
4 Mr. Malone himself were here --

5 THE COURT: He could say how the robbery went
6 down.

7 MR. ENZINNA: Right.

8 THE COURT: Now the Court is considering permitting
9 Mr. Caesar to say what Mr. Malone told him about how the
10 robbery went down.

11 MR. ENZINNA: Right.

12 THE COURT: Your objection is hearsay, out-of-court
13 statement by Malone offered for the truth of the matter
14 asserted. Caesar can't testify to this; only Malone can.
15 Response: Exception to the hearsay rule, forfeiture by
16 wrongdoing. Hearsay comes in. Seems open and shut.

17 MR. ENZINNA: I understand --

18 THE COURT: Mr. Bussard.

19 MR. BUSSARD: Your Honor, I'm joining the objection
20 at this point. Your Honor, Mr. Caesar, throughout this entire
21 testimony, is a government agent, he is not a
22 co-conspirator.

23 THE COURT: Well, it's not coming in under
24 co-conspirator. I'll give you your record on that. That's
25 not the Court's thinking at all.

1 MR. BUSSARD: And I understand Mr. Malone also is
2 not a co-conspirator, but that's a separate issue.

3 THE COURT: Right. But that's also not the
4 justification. If Moses Malone was alive, he would be
5 permitted to testify about how the robbery went down and how
6 he was robbed by Norman and some person who is otherwise
7 unknown to him. That would be relevant, admissible testimony.
8 But he's unavailable and the Court has made the threshold
9 determination as to culpability of the defendants for
10 wrongfully procuring that unavailability. That's how I
11 understand the rule. Overruled.

12 MR. FRANCOMANO: Can I just join the objection?

13 THE COURT: Noted.

14 (The following proceedings were had in open court.)

15 THE COURT: Overruled. Restate the question.

16 Q (BY MR. MARTINEZ) Mr. Caesar, before the bench
17 conference I had asked you whether or not you spoke to Malone,
18 Mo, about the robbery and shooting and you were beginning to
19 say that you talked to him a couple days after the robbery,
20 remember that?

21 A Correct.

22 Q And could you tell us about that conversation that took
23 place a couple days after the robbery?

24 A Once I was able to find him and reach out to him, he
25 stated to me that Norman, and he didn't know who the other

1 person was at the time, they both trapped him in the alley,
2 pulled a gun out on him, robbed him. And as they was leaving,
3 Norman had shot at him, which the bullet hit the ground and
4 ricocheted and hit him in the leg.

5 Q Did you also talk to Norman about what had happened to
6 Malone?

7 A Correct.

8 Q What did he say?

9 A Said the same thing, but he didn't mean to shoot him.
10 That he was giving a warning shot, but the warning shot was on
11 solid ground, concrete, and ricocheted.

12 Q At this point in time, Mr. Caesar, were you again working
13 for law enforcement as an informant?

14 A Correct.

15 Q What law enforcement agency were you working with in
16 2013?

17 A Baltimore City ATF Task Force.

18 Q Were you working with a particular detective?

19 A Correct.

20 Q Who was that?

21 A John Hayden.

22 Q Before you -- and I'm sorry if I wasn't precise about the
23 timing, before you began working with Hayden, did you work for
24 another Baltimore police officer?

25 A Well, it was Dawnyell Taylor.

1 Q And what part of Baltimore -- the
2 Baltimore Police Department did she work for?

3 A Homicide.

4 Q After the robbery and shooting of Moses Malone, did you
5 tell Detective Taylor what had happened to Mo?

6 A Correct.

7 Q After you shared that information, can you recall whether
8 you were asked to help law enforcement find Moses Malone?

9 A I was told if I see him to go ahead and try to get him to
10 a safe location and go ahead and call the police and somebody
11 would take him down to homicide for questioning.

12 Q So after Mr. Malone was robbed, Mr. Caesar, did there
13 come a time where the two of you were out selling drugs at
14 25th and Greenmount?

15 A At that time we was actually standing in front of the
16 store, but we got pulled up by a regular patrol officer at the
17 time. I think his name was Burnett, I'm not sure. I get a
18 couple of them officers mixed up because they look alike.

19 (Laughing) Excuse me, Your Honor.

20 But at that time I did -- what I did was I -- after
21 the officer went ahead and left us and when I was able by
22 myself, I ran across that same officer at the time. As a
23 matter of fact, it is Officer Burnett. And I explained to
24 Burnett that if he see Moses Malone again, he said, yeah, he
25 up the street. I said, grab him, take him into custody, and

1 take him down to homicide. Dawnyell Taylor needs to speak to
2 him. And I explained to him what happened. And the next
3 thing, he went up and got him, got in contact with Dawnyell
4 Taylor, Detective Taylor. He transported Moses Malone down
5 homicide.

6 Q Thank you, Mr. Caesar.

7 A Or Eastern, I think Eastern District first. But he ended
8 up meeting up with Dawnyell, Detective Taylor down at
9 homicide.

10 MR. MARTINEZ: Your Honor, may I approach at this
11 time?

12 THE COURT: Yes.

13 (Bench conference on the record.)

14 MR. MARTINEZ: This is a break in the outline.
15 We're about to head into sort of --

16 THE COURT: Good spot for the morning break? Thank
17 you.

18 (The following proceedings were had in open court.)

19 THE COURT: Time for the morning recess, ladies and
20 gentlemen. Don't discuss the case with anyone. Don't discuss
21 it even among yourselves. Do not allow yourselves to be
22 exposed to any news articles or reports that touch upon the
23 case or the issues it presents or any articles or reports that
24 relate to any of the participants in the case. Avoid all
25 contact with any of the participants in the trial. Do not

1 make any independent investigation of the law or the facts of
2 the case. Do not look up anything on the internet. Do not
3 consult an encyclopedia or a dictionary. 15 minutes. Please
4 take the jury out.

5 (Jury left the courtroom.)

6 THE COURT: Mr. Caesar, you may step down and leave
7 the courtroom. You must return in 15 minutes.

8 THE WITNESS: Sir, yes, sir.

9 THE COURT: 15-minute recess.

10 (A recess was taken.)

11 THE COURT: Are we ready for the jury?

12 MR. MARTINEZ: Yes, Your Honor.

13 THE COURT: Bring the jury in.

14 (Jury entered the courtroom.)

15 THE COURT: Be seated, please.

16 Mr. Martinez, you may continue your examination.

17 Mr. Caesar, you remain under oath.

18 THE WITNESS: Yes, sir.

19 Q (BY MR. MARTINEZ) Mr. Caesar, before the break you told
20 us that you met a BGF member named Norman when you were living
21 in the Greenmount neighborhood; right?

22 A Correct, sir.

23 Q And do you remember telling us about your conversations
24 with Norman regarding the robbery and shooting of
25 Moses Malone?

1 A He admitted that he did what Tech ask him to do, as in
2 rob Moses Malone. And in the event of him robbing him, he
3 said he just was doing a warning shot. He didn't mean to
4 shoot him. But the warning shot was on the ground, which is
5 concrete, and the bullet hit the ground and a fragment scraped
6 him on the leg.

7 Q Did there come a time when Norman was arrested outside
8 your house at 2466 Greenmount?

9 A Yes, sir.

10 Q Where were you at the time? Actually, wait, let me put
11 the picture here, GM 36, on the screen. And I just asked you
12 where were you at the time Norman got arrested.

13 A Me, Tech, and Cookie was sitting on the steps right here
14 at the time. And Norman came from this direction, from the
15 24th -- that direction. And he came quickly to the house and
16 asked if he could run inside and dispose -- to pick something
17 up and get rid of it because the police was like behind him
18 and kept circling the block on him. In that case I said go
19 ahead because I couldn't deny it at the moment because Tech
20 was there. So when he ran inside, he came out a minute later
21 and the officer then called back up. And when we all came
22 out, we had about like ten guns pointed our directions. And
23 at that time the officers sealed off the house and took me,
24 Tech, and Cookie down the Eastern police station for
25 questioning.

1 Q All right. Let me stop you for a moment. You said that
2 Norman told you he was going in the house to put something up.
3 Did he say what he was going to put up?

4 A He didn't say the exact words what he was going to put
5 up. I knew he had a gun on him and some drugs.

6 Q And you said that after Norman was arrested that the
7 police were sealing off the area of your residence; is that
8 right?

9 A Correct, sir.

10 Q And you said that you, Tech, and Cookie were taken to the
11 police station?

12 A Correct.

13 Q Did the police stay at your house after you went to the
14 police station?

15 A Well, they was doing the stall tactic until they could
16 get in contact with a prosecutor and the prosecutor could get
17 in contact with a judge for search warrant. And that's when
18 they held us down there until they had searched the
19 premises.

20 Q Okay. So did there come a time when the police searched
21 your house?

22 A Yes, sir.

23 Q Were you there when the police searched the house?

24 A No, sir, Eastern police station.

25 Q Approximately how long were you and Tech and Cookie at

1 the Eastern District?

2 A Close -- anywhere between three to five hours.

3 Q And after those three to five hours, where did you go
4 when you left the Eastern District?

5 A The regular patrol gave us a ride back to my residence
6 and into the residence.

7 Q So when you got back to the residence, were Tech and
8 Cookie still with you?

9 A Correct.

10 Q What happened when you got back inside?

11 A When we got back inside, we went to go like search and
12 see what the police had done to the residence, but come to
13 find out they only had -- they had left the -- whatever
14 detective came in there, left a copy of the police statement
15 and warrant on my dining room table. And Tech was the one who
16 noticed it and then we both read over the warrant and the
17 statement that Moses Malone --

18 Q Let me stop you for just a minute. So you said you came
19 in with Tech and Cookie and you found a warrant in the
20 residence; correct?

21 A Yeah, the copy of the warrant and Moses Malone's
22 statement.

23 Q Where in the residence did you find this paperwork?

24 A On the dining room table. Technically, you know,
25 kitchen/dining room, you know how some houses is the dining

1 room kitchen together, it's that type of set up, so it was on
2 the table.

3 Q And who picked up the document first?

4 A Tech.

5 Q Did you see Tech pick it up?

6 A Correct.

7 Q You said that you and Tech both read it?

8 A Correct.

9 Q Did you see Tech reading the paperwork?

10 A Yes.

11 Q Can you remember whether Tech said anything to you about
12 what was in the paperwork?

13 A Well, as he was reading it, he was pointing it out to me.
14 And inside the statements it was stating that Moses Malone
15 identified the person who shot him, which was Norman. And
16 also inside the warrant it state my household is recognized as
17 a BGF house, BGF members living in that house.

18 Q I'm going to show you Government's Exhibit SW 1. Who's
19 address is that, Mr. Caesar, or whose address was it in
20 2013?

21 A That was my address right there.

22 Q All right. I want to direct your attention to the third
23 page here, Mr. Caesar. Do you recall reviewing these
24 paragraphs on the day Norman was arrested and the search
25 warrant was conducted at your house?

1 A Yes, sir.

2 Q I want to direct your attention to the first paragraph,
3 which refers to Detective Taylor receiving information from a
4 confidential source that indicated a black male named Mo had
5 been previously shot. And it goes on and there are other
6 references to a confidential source in the paragraph. The
7 confidential source indicated that the victim frequented the
8 area of Greenmount and 25th Street, for example. Do you know
9 who the confidential source that was providing that
10 information to Detective Taylor was?

11 A It was me, sir.

12 Q And then in the next paragraph it says, "During the
13 course of the interview, Malone identified himself as a
14 Tree Top Piru Blood gang member."

15 You told us earlier Mr. Malone also told you he was a
16 Blood; correct?

17 A Correct. But just because you say you one, don't mean
18 you one.

19 Q And in the fourth paragraph there, did you read this
20 paragraph when you saw the affidavit at your house?

21 A I briefly was going over the part where pretty much Moses
22 was doing the statement on Norman. So pretty much I read it
23 real quick with Tech when Tech was going over it in more
24 detail.

25 Q Okay. And I'm going to flip the page here. Do you

1 remember seeing this portion that says photographic array was
2 shown to Moses Malone, at which time he positively identified
3 the photograph listed under SID number as the person who
4 robbed him, and it continues to say that that SID number is
5 identified with Norman Handy?

6 A Correct.

7 Q Do you remember seeing that?

8 A Yes, sir.

9 Q And then, finally, it says the location of this dwelling,
10 that is your house 2466 Greenmount, is in known
11 Black Guerilla Family territory. Was that true, Mr. Caesar?

12 A In certain cases, yes.

13 Q Well, was your house in 2013, in April of 2013, was it in
14 BGF territory?

15 A In BGF territory.

16 Q So after you and Tech had read this affidavit, what did
17 he -- did he say anything about what to do with it?

18 A At that time, because technically, Tech is not part of
19 the Greenmount Regime, it's just though he had been around
20 that neighborhood selling drugs for a long time. And I'm not
21 part of the Greenmount Regime. Therefore, we would assist
22 them and they would assist us if we need help or anything like
23 that. So he said out of respect, he retook it, he called
24 Geezy and we went and met up with Geezy and gave Geezy the
25 copy of the warrant.

1 Q Who actually gave Geezy -- did you see who actually gave
2 Geezy --

3 A Tech had it in his hand and went inside the house and
4 gave it to Geezy.

5 Q Did you go inside the house with Tech?

6 A No, sir, stayed on the outside.

7 Q You mentioned earlier that Tech called Geezy, were you
8 there when Tech made the call?

9 A Yeah.

10 Q Do you recall what -- if you don't recall the exact
11 words, it's fine, but do you recall what, in substance, Tech
12 told Geezy during that phone conversation?

13 A We don't do too much talking over the phone, so he said
14 he needed to see him, it's very important, or something like
15 that. And we went around there and handed him a copy, the
16 copy of the warrant and statement.

17 Q How long was Tech in the house?

18 A As in living there?

19 Q No, no, I'm sorry. When you and Tech went and you said
20 you saw him go up the steps and he went inside and you didn't,
21 how long was Tech in the house?

22 A Probably less than five minutes.

23 Q Did you wait for him, were you there when he came back
24 out?

25 A I waited for him.

1 Q Did you talk to him when he came back out of the house?

2 A Yeah, that's when Tech indicated that Geezy went ahead,
3 because he was the C, and placed a green light on Moses Malone
4 head because he wrote a statement on another brother that
5 supposedly had shot him.

6 Q You said green light, could you tell the ladies and
7 gentlemen of the jury what that term means?

8 A In other words, he's the C, he's in charge of the regime.
9 In other words, he gave the order for Moses Malone to be
10 killed.

11 Q You told us before the break, Mr. Caesar, that in the
12 spring of 2013 you were providing information to
13 Detective Taylor; correct?

14 A Correct.

15 Q After the conversation you just described with Tech and
16 after discovering the search warrant affidavit in your house
17 and seeing what you saw in terms of the affidavit being
18 conveyed, did you call Detective Taylor?

19 A Correct.

20 Q Did you have her phone number?

21 A Yes, I do.

22 Q What did you tell her when you called her?

23 A I told her that the order came from Geezy that
24 Moses Malone has been green-lighted and he needs to be put up
25 in safety.

1 Q Why were you calling Detective Taylor to alert her of
2 that information?

3 A Well, at that time I felt as though he was a little young
4 kid and I used to try to talk positive to him. I didn't want
5 to see nothing happen. And the reputation of what happens on
6 Greenmount and with the organization, I know eventually he
7 would be dead. So therefore, I wanted to get him off the
8 street into safety, for his safety.

9 Q And after the green light was issued and you called
10 Detective Taylor, did there come a point in time where
11 Moses Malone left the Greenmount neighborhood for a bit?

12 A Yes.

13 Q Do you know where he went?

14 A It's my understanding he was placed -- well, I ain't
15 going to say I understand, I know he was placed in witness
16 relocation, placed in a hotel at an unknown location.

17 Q Okay. When you were living on Greenmount on 2013,
18 Mr. Caesar, did you meet a woman named Octavia or Oct for
19 short?

20 A Yes, sir.

21 Q Who was she?

22 A Just somebody that Moses used to mess with on the side
23 because he had a baby mama. It was another girl he dealt with
24 and somebody that just lived in the neighborhood around
25 somewhere -- the Cokesbury side.

1 Q Do you remember her living on Cokesbury, is that what you
2 said?

3 A I don't know the address, but I call it Cokesbury side,
4 back on the back side, other side of the park on 24th and
5 Greenmount.

6 Q I want to show you Government's Exhibit PHI 25.

7 A That's her.

8 Q And by "that's her," do you mean that's Octavia?

9 A Yes, sir.

10 Q Did you know her as Octavia or Oct?

11 A I just known her as Oct.

12 Q So while Moses Malone was out of the Greenmount
13 neighborhood for a bit in the witness relocation program, as
14 you described, do you recall being present or overhearing a
15 conversation between Oct and Geezy?

16 A Yes, sir.

17 Q Can you remember where that conversation took place?

18 A At the store on -- that's right on Greenmount called
19 Jolly's, right on Greenmount and 24th.

20 Q What kind of store is Jolly's?

21 A It's a Chinese, you know, sub shop, that type store, stay
22 open up late.

23 Q I'm going to show you what we've marked as
24 Government's Exhibit GM 37. Can you tell us what's in that
25 picture, Mr. Caesar?

1 A Jolly's, that's the store.

2 Q Do you recall where you were when this conversation
3 happened, can you point it out on the screen?

4 A This is the store right here called Jolly's. It's one of
5 the only stores besides the gas station that stay open up like
6 2:00, 3:00 in the morning. You can go get subs, chicken,
7 whatever you want.

8 Q So can you recall the conversation you heard, was it
9 during the day or night?

10 A Nighttime.

11 Q Was anything said during the conversation about
12 Moses Malone?

13 A At that time when I was in there, it was a few other
14 people in there. And Geezy was slapping the girl Oct on the
15 butt and told her, look, either you going to help us get
16 Geezy -- I mean, Geezy said you either going to help us get
17 Moses or we're going to kill you. Because everybody knew that
18 she can bring Moses out to the open because it was a rumor
19 that somebody spotted Moses leaving and still coming back to
20 the Greenmount area on the sneak tip --

21 Q Was there anything --

22 A -- going to see Oct.

23 Q I'm sorry, I cut you off.

24 A He was sneaking out of the witness relocation motel where
25 they had him at to come see the girl Oct.

1 Q Did you hear any discussion of a green light?

2 A Yeah.

3 Q Tell us about that.

4 A He told couple of them other brothers that was in there
5 at the time that anybody spots Moses, there's a green light.

6 Q And you told us what a green light means earlier;
7 correct?

8 A It's an order to be killed, anybody catch him on sight.

9 Q Did there come a time, Mr. Caesar, when Moses Malone
10 returned to the Greenmount neighborhood?

11 A Yes, sir, the night of his death.

12 Q I want to ask you some questions about the night of his
13 death. On the night of Mr. Malone's death, Mr. Caesar, where
14 were you?

15 A I -- me -- I was in my house, it was me, Tech, and Cookie
16 was together.

17 Q Do you remember telling us earlier about a BGF member
18 named Country?

19 A Correct.

20 Q Did there come a time on the night of Mr. Malone's death
21 where Country joined you and Cookie and Tech in the house?

22 A Yes, sir.

23 Q So this is PHI 83 and this is the photo you identified as
24 Country; correct?

25 A Yes, sir.

1 Q What, if anything, did Country say when he came into your
2 house?

3 A He stated that he spotted Moses, he had to make a phone
4 call. And at that time he didn't have no phone, so I allowed
5 him to use one of my phones that I had that I knew was still
6 possibly wiretapped, I don't know, you know how it go in the
7 game. But I allowed him to use my phone, therefore, he called
8 Wes and they went to go ambush him at the park.

9 Q Let's take that in pieces. You said Country -- you gave
10 Country your phone --

11 A Correct.

12 Q -- to make a call. Did you see Country make that phone
13 call?

14 A Yes, sir, right next to me.

15 Q So did you hear what was said?

16 A From my understanding of the conversation, Country went
17 to go -- Country told Wes that the one who's snitching on your
18 little brother is cutting through -- is at the store about to
19 cut through the park to go to Cokesbury. And my
20 understanding, Country, he left out the house, but Wes --

21 Q Let me stop you. We'll take it step by step. Now, when
22 Country came in the house and took your phone and you
23 overheard that conversation, were you able to see whether he
24 was armed while he was in your house?

25 A At that time I know he had a long-nosed .357, which was

1 gold in color, like a gold-ish bronze color, and a short nose
2 .357, both of them was .357s. Because earlier that day, he
3 came over with three, it was a .22 with a broken thing on
4 there, revolver with the pin out.

5 Q What happened when Country was done using your phone?

6 A He ran out the house to go to meet up with Wes, but
7 really -- they was really racing to go -- who going to get to
8 Moses first. And at that time he ran out the house, I waited
9 probably about 30 seconds to a minute. And I ran behind him,
10 act like I was carrying a jacket to him because he had a
11 bright coat on, so nobody can recognize him in something
12 bright, just to get outside the house to call Dawnyell
13 Taylor.

14 Q So you left the house to call Detective Taylor, did you
15 call her?

16 A Yup.

17 Q In fact, did you call her multiple times that night?

18 A I called multiple times. She answered the phone, and
19 when she answered the phone, I explained what's going on. She
20 said she about to get on her radio and radio some patrol
21 officers in that area. But at that time, like a minute later,
22 you heard multiple gunshots and Moses was dead.

23 Q So you mentioned that Country came out of your house and
24 you went after him; is that right?

25 A Yes, sir.

1 Q Let me put the map back on the screen. This, for the
2 record, is Government's Exhibit GM 10.

3 All right. Mr. Caesar, just for all of our benefit,
4 could you make a mark using your hand for the location of your
5 house?

6 A My house on this map would probably be right about
7 here.

8 Q Okay. Can you make it a little brighter? There you go.
9 So show us where Country went after he ran out of your house.

10 A When he ran out of my house, he went this way to 24th,
11 and I caught up with him right there on the corner of 24th and
12 Greenmount to hand him a hoodie, a jacket. And at that time I
13 stayed and placed myself on camera and that's when I was
14 talking to Dawnyell on the phone. Because I had her on the
15 phone, told her hold on, I was catching up to Country, but he
16 still was running across. He left my eyesight for a split
17 second. And -- but he wasn't quick enough, long enough to
18 reach Moses, which was in the middle of the park because
19 Wes Brook (sic) already got to him before he was able to get
20 to him.

21 Q So you said as you got to the corner there by the turn,
22 Country was out of your sight for a period of time, can you --
23 how long -- what's your best estimate how long Country was out
24 of your sight?

25 A Now, if anybody know about this park right here on

1 24th Street, people always -- multiple -- break the lights
2 down because the police put one of them police lights up
3 there. They break them too, it be pitch black. So as soon as
4 you turn that corner, it's pitch black. And he's probably out
5 of my eyesight less than six seconds, but it was physically
6 impossible to catch up with Moses Malone.

7 Q How long after you lost sight of Country did you hear
8 shots?

9 A Probably a couple seconds afterwards, but it -- I would
10 have saw the muzzle fire, anything like that because he wasn't
11 that far in front of me.

12 Q Could you show us on the map where Cokesbury Avenue is?

13 A You say Cokesbury? Right here (indicating.)

14 Q And in the period of time between when you lost sight of
15 Country and when you heard the gunshots, do you believe it's
16 possible -- it would have been possible for Country to make it
17 to Cokesbury?

18 A No, sir. He had a -- he was cutting through the park
19 because that's where Moses was found dead was in the park, not
20 exactly Cokesbury. But the park is between Cokesbury,
21 Greenmount, and 24th.

22 Q I want to focus, Mr. Caesar, on things that you have
23 personal knowledge of. Can you recall whether Country came
24 back to where you were standing on Greenmount?

25 A He came back where I was standing at. He took out both

1 guns and I was sitting there playing with them and trying to
2 show him how to clean a gun because they was both revolvers.
3 Therefore, I know there was no burnt smell, no residue, or
4 anything as in being fired. And at the time he did not have
5 the .22. Wes had the .22. He only had the .357s.

6 Q Did Country say anything to you when he came back to
7 Greenmount?

8 A He told me that Wes Brook already got to him before.

9 Q You said Wes Brook?

10 A I mean -- my fault, sorry. Wes already got to him.

11 Q I want to skip forward to the following day. Do you
12 recall overhearing a conversation between Country, Wes, and
13 Tech?

14 A Country, Wes, and Tech concerning which one -- about
15 what?

16 Q Well, that's what I want you to tell us, but the day
17 after Moses was killed, did you hear a conversation --

18 A Oh --

19 Q -- talking?

20 A Yeah, that conversation right there you talking about is
21 when -- I don't know if they was -- I don't know, either Geezy
22 was getting promoted to run the whole, like that part of the
23 East Baltimore area, but the guy Mike Mike that came in the
24 picture, he was taking over the C position. And I think they
25 was bumping Geezy up into the next like -- where though he be

1 in charge maybe like multiple regimes. And Mike Mike was
2 taking over that regime at that time and Country didn't want
3 to work underneath Mike Mike and Wes didn't want to work
4 underneath Mike Mike. So they was talking about giving it up
5 and all that or they just take sanctions or whatever, they're
6 not going to listen or they switching regimes.

7 Q Okay. And we'll come back to that conversation in a
8 moment, Mr. Caesar. I apologize if my question was not
9 specific enough. I'd like to know whether you ever heard a
10 conversation between Country, Wes, and Tech about Moses and
11 his murder?

12 A No. Wes just admitted killing him. That's it. You
13 know, it's not like a whole conversation. We all know what
14 happened: Somebody spotted him, they ambush him, killed him.
15 You don't have a whole blown conversation about it, but --

16 Q Well, I do want to -- you said Wes admitted killing him.
17 Can you -- even four years after the fact, I want you to do
18 the best you can to recall the substance of what you overheard
19 Wes said.

20 A He just admitted that he beat Country to it, he shot him,
21 and that was for his brother. Not a word-for-word quote back
22 then because it was like limited conversation once you admit
23 to it and I heard it, you know what I mean, I'm going for what
24 you saying and as of what I seen at the time.

25 Q I want to fast forward just a little bit. Did there come

1 a time where you learned that Country had been killed?

2 A Yes, sir.

3 Q And around the same time period, did there come a time
4 where you got locked up?

5 A Correct.

6 Q What did you get locked up for?

7 A Selling to an undercover cop, police officer the day
8 after, the next morning after Moses Malone got killed.

9 Q When you got locked up for selling to the undercover, can
10 you tell us whether you made bail?

11 A Yeah, I made bail couple days later.

12 Q Were you also on parole or probation at the time?

13 A Correct.

14 Q So after you made bail, did there come a time where your
15 parole or probation officer violated you?

16 A You automatically get violated in the arrest.

17 Q Well, did there come a time you got locked back up?

18 A Yes, sir.

19 Q Can you remember what jail you got sent to when you were
20 locked back up?

21 A Diagnostics.

22 Q Is that already known as MRDCC?

23 A Correct.

24 Q Do you remember telling us earlier that you knew a member
25 of the Greenmount BGF Regime in 2013 named Slay?

1 A Correct.

2 Q Do you remember pointing him out before the break?

3 A Yes, sir.

4 Q Can you recall whether you bumped into Slay at any point
5 while you were locked up on the violation at MRDCC?

6 A Yes, sir. At that time, because of all that was going
7 on, I was placed on administrative custody and I was being
8 escorted down to the medical department. And that's when I
9 bumped into Slay and the CO let me talk to him for a minute.
10 And he was telling me that what happened to Country and that
11 he did done it.

12 Q Did he say anything more about what happened to
13 Country?

14 A No, he said he was the one who killed him.

15 Q Did he say whether it had been ordered?

16 A The order came from Mike Mike.

17 Q And you were telling us earlier that there came a point
18 in time after Moses was killed when Mike Mike became the C, is
19 that what you're saying?

20 A Yeah, Mike Mike became the C. And he -- Mike Mike knew
21 people wasn't going to fall in line underneath him, so sent
22 Slay to do his dirty work, to take Country out because Country
23 was -- he was young, but he wasn't that real, real dumb. He
24 was one of them paranoid individuals, so ain't too many people
25 can get close to him.

1 Q Last couple of questions, Mr. Caesar. I asked you some
2 questions about your various phone calls that you made in the
3 spring of 2013, do you remember that?

4 A Yes, sir.

5 Q Do you remember telling us about the phone calls you made
6 to Detective Taylor?

7 A Yes, sir.

8 Q Do you remember telling us about the phone call that
9 Country made using your phone on the night that Moses was
10 murdered?

11 A Correct.

12 Q Has anyone ever showed you any records of or paperwork of
13 any kind showing you the numbers that were dialed to and from
14 your phone?

15 A No, but I took my phone to Detective -- to
16 Detective Taylor and them. And they seen the call was off my
17 call logs and was able -- probably to get it from the phone
18 company.

19 Q Yeah, I'm asking you, have you ever seen those logs?

20 A No, sir.

21 MR. MARTINEZ: Court's indulgence.

22 THE COURT: Yes.

23 MR. MARTINEZ: No further questions.

24 THE COURT: Thank you. I think this is a logical
25 break point to take our lunch break. Ladies and gentlemen,

1 we'll stop here. During the lunch break do not discuss the
2 case with anyone. Don't discuss it even among yourselves. Do
3 not allow yourselves to be exposed to any news articles or
4 reports that touch upon the case or the issues it presents.
5 Avoid all contact with any of the participants in the trial.
6 Do not make any independent investigation of the law or the
7 facts of the case. Do not look up anything on the internet.

8 I have another matter to attend to during the lunch
9 hour, ladies and gentlemen, so our lunch break again today
10 will be slightly longer than normal. We'll be on lunch until
11 10 minutes past 2:00 o'clock. 2:10. Take the jury out,
12 please.

13 (Jury left the courtroom.)

14 THE COURT: Mr. Caesar, you may step down and leave
15 the courtroom, but you must return at 2:10 p.m.

16 THE WITNESS: Yes, sir.

17 THE COURT: Recess until 2:10.

18 (A recess was taken.)

19 THE COURT: Are we ready for the jury?

20 MR. MARTINEZ: We are, Your Honor. And Mr. Bussard
21 and I were just discussing a scheduling issue briefly. And so
22 before we bring the jury out I wanted to bring the Court into
23 the loop of what our witness line up looks like at the moment.
24 So obviously we have Mr. Caesar, who's still on cross. We
25 don't know what redirect will be required. We have

1 Ray Hunter, the homicide detective who was the investigator on
2 the Malone murder scheduled to go after Mr. Caesar. And we
3 were worried this morning we may run out of witnesses after
4 Hunter. I think we're going to be in good shape. We have
5 Detective Thomas Jackson here, who's the investigator of the
6 Trevon White, Country, murder. And --

7 THE COURT: This is a different detective --
8 different Jackson than the Sergeant Jackson who we heard
9 from.

10 MR. MARTINEZ: Glen Jackson was this morning and
11 Thomas is the homicide detective. And we brought him here
12 because we had some other plans, Detective Taylor was going to
13 testify and we had disclosed her, but she had a medical issue
14 today. We were worried about running out of witnesses, so in
15 a pinch we called Jackson. But we had not yet told defense
16 counsel that Jackson might be on the agenda today. So I
17 mentioned this to Mr. Bussard because I was sensitive to, you
18 know, the possibility of while on the one hand we don't want
19 to tell the Court and jury we're out of witnesses early, on
20 the other hand, I'm sensitive to not --

21 THE COURT: So back up. You've got Caesar. Who
22 would come on after Caesar?

23 MR. MARTINEZ: Hunter.

24 THE COURT: Hunter. You know about that?

25 MR. BUSSARD: Yes, Your Honor.

1 THE COURT: Okay. And that's potentially --

2 MR. MARTINEZ: I think that gets us there. I just
3 wanted to flag the issue. So I think after having spoken with
4 Mr. Bussard, in particular, who I think is most directly
5 impacted by what Detective Jackson --

6 THE COURT: And you're concerned about it.

7 MR. BUSSARD: Yes, I am.

8 THE COURT: You would like another night's
9 preparation.

10 MR. BUSSARD: Well, I don't even have the file with
11 me today.

12 THE COURT: Sounds like we probably have our answer,
13 but let's see what happens.

14 MR. MARTINEZ: Very good.

15 THE COURT: Okay. Let's bring them in.

16 (Jury entered the courtroom.)

17 THE COURT: Good afternoon, ladies and gentlemen.
18 Ladies and gentlemen, going forward in the trial here, during
19 those times when counsel and I are involved with a bench
20 conference, it would be perfectly acceptable for jurors, if
21 they wish, to stand, take a stretch break during that time. I
22 would ask you to remain silent, appropriate for the decorum
23 that we try to maintain in the courtroom. But if you want to
24 stand up during those bench conferences and take the
25 opportunity to stretch out a little bit after sitting in those

1 chairs for as long as you sit, that's perfectly acceptable.

2 We're ready to continue with the examination of
3 Mr. Caesar, who remains under oath.

4 Cross-examination, Mr. Enzinna.

5 MR. ENZINNA: Yes, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. ENZINNA:

8 Q Good afternoon, Mr. Caesar.

9 A Good afternoon.

10 Q My name is Paul Enzinna, I represent Gerald Johnson. I
11 wanted to start by asking you some questions about timing.
12 You said this morning that you're 40 years old; correct?

13 A Correct.

14 Q So you were born in 1977?

15 A Correct.

16 Q And you said that you went into prison in 2002; is that
17 correct?

18 A Yeah.

19 Q For attempted murder?

20 A Correct.

21 Q You were sentenced to 20 years, with all but 12
22 suspended?

23 THE COURT: Okay. Just a second. Can you
24 reposition the microphone. The microphone only picks you up
25 if you're within a certain -- you're close to it. But if

1 you're too close, then it starts getting other disturbance, so
2 it's kind of a fine thing. About two inches is perfect.

3 THE WITNESS: Yes, Your Honor.

4 THE COURT: Go ahead, Mr. Enzinna.

5 Q (BY MR. ENZINNA) You were sentenced in 2002 for
6 attempted murder to 20 years with all but 12 suspended;
7 correct?

8 A And three years probation.

9 Q And three years probation. And then you were released in
10 2010?

11 A Correct.

12 Q And you have worked as an informant since 2010;
13 correct?

14 A Correct.

15 Q Did you work as an informant before 2010?

16 A Yes.

17 Q While you were in prison?

18 A Not in prison, but before prison.

19 Q When did you first start working as an informant?

20 A About 18.

21 Q So that would be 1995?

22 A Correct.

23 Q So you did it for seven years before you went into
24 prison?

25 A Correct.

1 Q And now you've done it for seven years since you've been
2 out of prison?

3 A Correct.

4 Q So since you were 18, you have spent approximately 14
5 years working as an informant and eight years in prison?

6 A Correct.

7 Q But you also were in prison you said for a probation
8 violation at some point?

9 A Correct.

10 Q How long were you in prison for that?

11 A I was only being held until the, you know, parole
12 revocation hearing.

13 Q How long were you held?

14 A About a year.

15 Q A year, that was when?

16 A Right the day after the incident with Moses.

17 Q The day after Mr. Malone was killed?

18 A The day after Moses I was picked up for the undercover
19 thing. And then like a couple days after that, because once
20 you're named, you get locked up, your name go in the system,
21 parole and probation automatically come get you.

22 Q I see. So you were picked up the day after Moses Malone
23 was killed; correct?

24 A Correct.

25 Q For selling drugs?

1 A Correct.

2 Q And then you were -- were you released and then picked up
3 again a couple days later?

4 A Correct. I made bail, then they didn't pick it up in the
5 system. Made bail, then a couple days later I was picked
6 up.

7 Q So like I said, since 18, you've spent eight years in
8 prison and 14 years as an informant; correct?

9 A Something like that, yeah.

10 Q So being an informant has really been your career;
11 correct?

12 A No, because I always had a job.

13 Q What job?

14 A Construction.

15 Q Construction, are you doing that now?

16 A Where I'm at -- I was -- I just started another job.

17 Q Okay. Who do you work for?

18 A Can't disclose that because I would be giving up my
19 location.

20 Q Okay. Can you describe the type of you work for?

21 A Well, I work -- right now I'm working for doing delivery
22 work.

23 Q Okay. How long have you been doing that?

24 A This particular job for about two months. And before
25 that I was doing mechanic work and before that I was doing

1 flood -- emergency flood damage. And before that regular
2 construction company. Before that working 4-, 500 feet in the
3 air on water towers.

4 Q Okay. So you have other jobs and the money you make as
5 an informant is just on top of that?

6 A First of all, I don't make no real money.

7 Q You don't. Isn't it true that since 2016 you've been
8 paid \$50,000 by the U.S. Government?

9 A Incorrect.

10 Q What is correct?

11 A See, what you probably got down, that money that you
12 talking about dealing with the ATF is dealing with lodging and
13 relocation. But if you want to be in particular where I know
14 where you're going at, I lost more than what I ever gained. I
15 lost three, four vehicles and some more stuff doing this
16 stuff, so I lost more than what I gained. But I see where
17 you're going at, sir.

18 Q So is it your testimony that you -- that you received no
19 money directly for informing?

20 A I received money to be relocated until I can establish
21 myself and daily expenses. That's what I received. I don't
22 receive no money to go out buy new shoes, buy vehicles,
23 houses, or anything like that.

24 Q Why do you do it?

25 A Why I do it?

1 Q Yeah.

2 A Maybe I like to make a change, maybe I can do the stuff
3 other people can't do and that's what I'm good at.

4 Q Was the attempted murder part of that too?

5 A The attempted murder, I'm not even going to get on the
6 case because the simple fact -- I'm just not going to get on
7 that because it's a long story behind that. And I'm going
8 to -- somebody going to help me admit the falsify thing that
9 occurred in that.

10 Q I'm sure there is a long story. Now, you have -- in the
11 time you worked as an informant, you worked with differing
12 agencies; correct?

13 A Correct.

14 Q You worked for DEA at one point?

15 A Correct.

16 Q Baltimore City Police Department?

17 A Well, technically I worked for Baltimore City Police
18 Department first. But the same controlling agent I dealt with
19 was a high rank in there and was always on a different task
20 force. So I ended up working for different agencies or if he
21 tell me something about something, he know the individuals
22 personally that's trustworthy, okay, because the dealings with
23 me and him, I would go work with a different agency if
24 something comes across of interest.

25 Q Okay. And in this matter you're working with ATF?

1 A Correct.

2 Q And who's the agent you're working with?

3 A Right now I'm working with John Hayden and Agent Lisa
4 right there.

5 Q Okay. And you have met with Mr. Martinez and
6 Ms. Hoffman; correct?

7 A Correct.

8 Q In fact, you met with them last night; right?

9 A No.

10 Q When was the last time --

11 A Well, yeah, I did meet with them yesterday, not exactly
12 at night, evening.

13 Q Okay. I apologize. When was the first time you met with
14 them, was it more than a year ago?

15 A Yeah.

16 Q Was it in February of 2016?

17 A I met with them -- them personally, but I was already
18 dealing with Hayden. But I met with them personally not too
19 long after Moses got killed.

20 Q Okay. All right. Now, you testified earlier that you do
21 not have a cooperation agreement; correct?

22 A A what?

23 Q A cooperation agreement?

24 A No. There's no charges on me. I don't owe the state or
25 the government nothing. I'm doing this on my own free will.

1 There's no pay, there's no time being deducted, there's
2 nothing that I'm getting out of this but to help the innocent
3 individual that shouldn't have got killed from the get-go.

4 Q Okay. You said -- you testified earlier today that you
5 were arrested in 2013. In fact, you just said it now, you
6 were arrested in 2013 for drug distribution; correct?

7 A Correct.

8 Q What happened to those charges?

9 MR. MARTINEZ: Objection.

10 THE COURT: You may approach.

11 (Bench conference on the record.)

12 THE COURT: What's the objection?

13 MR. MARTINEZ: I wanted to raise the same 609
14 objection that we dealt with a couple of weeks ago.
15 Mr. Caesar's criminal history has been disclosed as part of
16 our *Jencks* materials and that criminal history reflects that
17 that particular drug arrest that triggered the VOP that he was
18 held on for a little while didn't result in a felony
19 conviction. So I don't think it's fair game for crossing. So
20 that's the objection.

21 THE COURT: Yes, so I would say that the whole
22 testimony up to this point has somewhat opened the door to an
23 explanation of what the charges were potentially, you know,
24 how -- in terms of how long -- how it impacted how long he was
25 locked up, because of how long he was in jail as opposed to on

1 the street, seems to be independently relevant to the story
2 here. So it's not a clear crisp 609 kind of problem. What
3 did happen to the charges? Was he convicted, were they
4 dismissed, do you know?

5 MR. MARTINEZ: I am confident they did not result in
6 a felony conviction that would be admissible under 609.
7 Beyond that, I don't have the document in front of me.

8 THE COURT: All right. Well, then the next question
9 is was -- did the government -- was there any benefit
10 conferred by the government, the state's attorney's office,
11 the police department, et cetera, in relation to those charges
12 in relation to his work as an informant?

13 MR. MARTINEZ: Nothing, certainly nothing we're
14 aware of, Your Honor. He was not -- the investigation was
15 state side at that point in time, and we've retained that
16 file. And there's no indication from anything we received
17 from the state's attorney's office or the BPD that they gave
18 him any kind of leniency. In fact, he never testified for
19 them in the state proceeding against Mr. Johnson.

20 THE COURT: Do you have any reason to believe that
21 he gained some benefit?

22 MR. ENZINNA: Well, he has testified inconsistently
23 about his criminal record and I'm trying to figure out what
24 exactly the truth is. I think he has gained a benefit from
25 it.

1 THE COURT: Well, as to what his criminal record is,
2 normally matters of criminal conviction and adjudication and
3 so forth are admissible only for impeachment purposes and only
4 if they meet certain standards, such as did they ripen into a
5 felony conviction, was there a crimen falsi involved and so
6 forth. But I think where you're trying to go is actually a
7 little bit different direction. And it has to do with, well,
8 was he otherwise receiving benefits. I think, Mr. Martinez,
9 you would agree that if the government was routinely
10 dismissing misdemeanor petty offense charges against someone
11 as a payment, essentially, or compensation for their
12 cooperating, that that would be admissible because that is
13 something that tends to impact on their motivation to testify;
14 right? I mean, that's a simple question.

15 MR. MARTINEZ: And the answer to that in the
16 abstract is certainly yes. There's no information --

17 THE COURT: Your point is, what's the basis for --

18 MR. MARTINEZ: Correct.

19 THE COURT: And the question is really down to this:
20 Is there enough here to allow defense counsel to fish, which
21 is what we're doing, we're fishing. And I'm looking for some
22 kind of a basis to allow you to do that. What would justify
23 your being permitted to do that? You started down a road of,
24 well, he's been inconsistent. That doesn't help so much
25 because that just goes to the 609 issue. But if you can

1 persuade me there's something afoot here that reflects on what
2 his motivations might be in testifying, then I'm interested.

3 MR. ENZINNA: Well, I think there is because he was
4 charged in 2013, which is four years ago, with drug possession
5 and drug distribution. Those charges -- the statute of
6 limitation has not run on those charges. He could still be
7 charged for that.

8 THE COURT: Yeah, but this is the context of the
9 City of Baltimore and drug charges. I mean, I guess it's a
10 theoretical probability.

11 MR. ENZINNA: He could still be charged federally
12 too.

13 THE COURT: I'm going to allow you to get into it,
14 but we'll see what the answers are to the questions. And if
15 you don't hit pay dirt pretty quickly, you're going to --

16 MR. ENZINNA: I don't plan to fish very deep.

17 THE COURT: You got it. Okay. Let's go.

18 (The following proceedings were had in open court.)

19 THE COURT: Overruled. You may inquire.

20 Q (BY MR. ENZINNA) Mr. Caesar, what happened to those
21 charges?

22 THE COURT: What happened -- the question is -- do
23 you know what charges he's asking you about?

24 THE WITNESS: Yes, sir.

25 THE COURT: So the question is, what happened to

1 those charges?

2 A At that time I registered as an informant and I knew they
3 knew what I was doing and I was gathering information. In
4 other words, to infiltrate something the same way as an
5 undercover cop, you got to break the law to get the law break.

6 Q (BY MR. ENZINNA) I understand.

7 A So that's what it was.

8 Q Okay. I want to stay in chronological order for a
9 minute. You said that in 2010 you were released from prison
10 and you were on three years of probation; correct?

11 A Correct.

12 Q And that's when you began to infiltrate BGF?

13 A Correct.

14 Q Who were you working for then?

15 A DEA.

16 Q DEA. Did DEA instruct you to try to infiltrate BGF?

17 A Correct.

18 Q And you said you were living on the west side at that
19 time?

20 A Correct.

21 Q So you went from prison to the west side of Baltimore?

22 A No. I went from prison to northeast and then I went to
23 West Baltimore.

24 Q Okay.

25 THE COURT: Move the mike back up by your face.

1 THE WITNESS: I apologize, Your Honor. I went to
2 northeast, then to the west side on North Avenue and Monroe.

3 Q (BY MR. ENZINNA) So how did you go about infiltrating
4 BGF, what's the first thing you did?

5 A They're not as smart as they think they are.

6 Q So what did you do?

7 A Do what I normally do, be me. People like me,
8 unfortunately.

9 Q Well, I mean, did you go knock on someone's door and say,
10 hey, I'd like to join BGF?

11 A No, I didn't knock on no door. I had a dummy that was
12 down -- excuse my language, Your Honor -- I had somebody that
13 wasn't bright and wasn't smart enough that was down
14 Central Booking, that's pretty much a lot of people dealt with
15 him because he was BGF. Only knew me from coming out, when I
16 come out for rec, being down -- no, not Central Booking,
17 Supermax. And so he was the one that introduced me and that
18 was the opportunity. And the opportunity came knocking, I
19 took advantage.

20 Q Okay. Is that Woo?

21 A Woo.

22 Q Okay. And he introduced you to who?

23 A Uncle Perry.

24 Q Uncle Perry. And Uncle Perry, I think you said, was the
25 second ranking BGF person on the street?

1 A Correct.

2 Q And you said that you had a security background at this
3 point?

4 A At one point, yeah, I was in the private sector.

5 Q Okay. And it was that security background that caused
6 Uncle Perry to take you in as his security?

7 A Yeah, because inside the system, I dealt with the
8 organization the Nation of Islam. I was always on point,
9 militant. And I always had background on the street doing
10 private security. So we got together a lot of them, including
11 even Geezy see me over at the penitentiary, he knew who I was.

12 A lot of people just like me. A lot of people slide to me
13 because the way I carry myself. And the security aspect,
14 anything dealing with the Nation of Islam, everybody knew it
15 was militant. And the celebrities on the streets in the
16 background got Nation of Islam doing security.

17 Q Let me try to unpack that. You said that you did
18 security work in the private sector?

19 A Yes, sir.

20 Q So that would have been before 2002; correct?

21 A Correct.

22 Q And that was where?

23 A I go all the way back to the old projects, to
24 Murphy Homes, Flag House, with Solidarity Security, which used
25 to be NOI. But when the contract switched over, it went to

1 Solidarity and the other part of NOI Security went to
2 Starbright Security, and I was a sergeant down Flag House.

3 Q So were you employed as a private security guard?

4 A At a young age.

5 Q Were you employed as a private security guard?

6 A Yeah.

7 Q How old were you?

8 A That time I was like 18, 19 years old down Flag House
9 projects.

10 Q How long did you do that job?

11 A For a while.

12 Q Until you went to prison?

13 A I was there probably like about a year or so.

14 Q So you were a private security guard for a year?

15 A Yeah.

16 Q Any other security background?

17 A Yeah, I also used to run off-duty police.

18 Q You used to run off-duty police?

19 A In other words, had my own contracts, basically like
20 Upper Deck, Crazy John, stuff like that with off-duty police,
21 parties and stuff like that. People hire off-duty police for
22 the parking lots or to secure their property and stuff like
23 that. So I used to run my own contract.

24 Q So people would come to you and say, I want to hire some
25 off-duty police to provide security at some event?

1 A Same way you got the bailiffs up in here that's working
2 contracts for the U.S. Marshals up in here, it's a contract
3 company.

4 Q Sure.

5 A You go set up and you apply for contracts. Either the
6 owners want you or the owners don't. Same way. Like I said,
7 my guards -- my guards were the off-duty police. They was
8 high stakes and commodity of off-duty police back then.

9 Q So let me make sure I understand. People would come to
10 you and say, I want to hire some off-duty police to provide
11 security at my place or my event?

12 A Correct. You know, police officers are allowed to work
13 secondary employment like security guards.

14 Q Yes.

15 A And what I did was provided contracts and work for them
16 at a young age.

17 Q Mr. Caesar, this will go a lot faster if you answer my
18 questions and just answer my question.

19 MR. MARTINEZ: Objection.

20 THE COURT: Sustained. If you want a witness
21 instructed you know how to achieve that and that's not the
22 method.

23 Q (BY MR. ENZINNA) Mr. Caesar, so people would come to you
24 and say --

25 THE WITNESS: Excuse me a second, Your Honor,

1 instead of him beating around the bush, can you just ask me a
2 question, because I'm getting confused? He's going around the
3 bush --

4 THE COURT: Stop talking. Stop talking. This is
5 how this is going to work: Mr. Enzinna's going to ask
6 questions. He's going to do it in a way that comports with
7 the Federal Rules of Evidence. Mr. Caesar is going to answer
8 the questions. Question and answer, the next question and the
9 next answer. And if another lawyer thinks there's something
10 that's inappropriate about what's occurring, they will object,
11 and I'll rule on the objection and then we'll continue. But
12 that's how it goes. That's how it always goes.

13 Mr. Enzinna, you may inquire.

14 Q (BY MR. ENZINNA) How long did you have that business
15 placing off-duty police officers?

16 A For about a year.

17 Q Was that after you were a private security guard?

18 A Pretty much, yeah.

19 Q Okay.

20 A During the same time, doing both at the same time.

21 Q Okay. Any other security experience?

22 A Besides dealing with the Nation of Islam, nope.

23 Q Okay. Well, now, the Nation of Islam, was that while you
24 were in prison or while you were out of prison?

25 A Beforehand and out.

1 Q So before you went to prison and then again after you got
2 out of prison?

3 A Correct.

4 Q Okay. And what exactly were you doing?

5 A Both security aspects, celebrities come into town, we
6 secure the celebrities the VIPs, whatever the contract
7 consists of, working in messed up neighborhoods, apartment
8 complexes where we get sent, that's where we work.

9 Q Were you working for the Nation of Islam?

10 A Well, they had called and they do the subcontract through
11 the security part, yeah.

12 Q Okay. Who was your employer?

13 A When?

14 Q At that time when you were --

15 A Solidarity Security.

16 Q So you were still a private security guard?

17 A Correct. We had the housing contracts in the projects
18 before Murphy Homes and Flag House got torn down. You can go
19 back and check, used to be NOI Security. Because they tried
20 to say it was a religious thing, they broke down into two
21 different companies, which was Solidarity and
22 Starbright Security.

23 Q Okay.

24 A Did that answer your question?

25 THE COURT: Just answer the questions. No

1 editorializing. Next question.

2 Q (BY MR. ENZINNA) All right. So when you met
3 Uncle Perry, did you describe your security background to
4 him?

5 A Correct.

6 Q And he then hired you or asked you to be his security?

7 A Correct.

8 Q Did that all take place on one day?

9 A No. He did some type of, as they say, their
10 "background," and whatever came back, a lot of people approved
11 of me and knew me. So that's how I got in that position.

12 Q Okay. Now, while you were working for Uncle Perry, you
13 were also working for the DEA; correct?

14 A Correct.

15 Q And in fact, at some point the DEA put a microphone in
16 your car?

17 A Correct.

18 Q And they put a video camera in your car?

19 A Correct.

20 Q Did they intercept your telephone calls?

21 A Correct.

22 Q And you recorded interactions with Uncle Perry?

23 A Correct.

24 Q Now, at this time, you talked earlier this morning about
25 being a fox and then being a full-fledged brother, do you

1 remember that?

2 A Correct.

3 Q Now, at this time when you became Uncle Perry's security
4 personnel, were you a fox or a full-fledged brother?

5 A I was a fox, but as soon as I started working for
6 Uncle Perry, Uncle Perry and Double R decided to say that I
7 was a full-fledged brother.

8 Q Okay. And you testified this morning that you -- I think
9 you testified, correct me if I'm wrong, you testified about
10 the way you became a full-fledged brother was not the same as
11 the way other people became full-fledged brothers; is that
12 correct?

13 A Correct.

14 Q And specifically, you were not required to know the
15 rules, did I understand that correctly?

16 A I was required to know certain things, but I didn't have
17 to recite like most of them. I didn't have to recite because
18 they wanted to keep me -- if I was ordered to do something and
19 it was against the rules, I won't be held liable and
20 accountable for it because I had no knowledge of it.

21 Q Okay. So the leaders of BGF wanted you to serve as their
22 security personnel and wanted you not to understand the rules
23 so they could order you to do things that were against the
24 rules?

25 A Pretty much, correct.

1 Q Okay. Now, we talked a little bit about those rules this
2 morning and you said that one of the rules you were aware of
3 is the rule against cooperating; right?

4 A Correct.

5 Q And you said that if someone suspects a brother, a BGF
6 member of cooperating with the police, they have to -- I think
7 you said they have to show paperwork?

8 A Correct.

9 Q Right. So they can confirm that the person is actually
10 cooperating; right?

11 A Correct.

12 Q And then once that paperwork is verified, then sanctions
13 can be applied; right?

14 A Correct.

15 Q And you said that either the C or a bush member makes the
16 final call about the sanctions?

17 A Well, you want to know the protocol? Everything supposed
18 to go to MOJ, the minister of justice. The minister of
19 justice have to go to the C, which is the commander. That
20 means from the C, supposed -- all depends how big the
21 situation is, then it's supposed to go to whoever the bush
22 member for that whole entire area. And then from there,
23 whatever order is given is given. But we all know, in all
24 actuality, some people take more power into their hands
25 thinking it won't go back up to the top.

1 Q But the rule is that a BGF member is not supposed to take
2 matters into his own hands with respect to another brother;
3 right?

4 A Correct. That is the rules, but who listens to the
5 rules?

6 Q Okay. That rule doesn't apply to non BGF members, does
7 it?

8 A Well, non BGF members, if the C gives an order and he
9 sees something on black and white, he's allowed to go ahead
10 and make whatever order it is, unless it's a conflict. If
11 he's dealing with another big organization or anything like
12 that that could cause a big conflict, big war or something
13 like that, had to go to the hierarchy. But for a regular
14 person on the street, if the C decide he want something taken
15 care of, it can be done if it just an ordinary person, if
16 there's one person you got to worry about, not a whole other
17 organization, get more people killed.

18 Q But can a BGF member take action against someone who is
19 not a BGF member without getting authority?

20 A Correct.

21 Q They can?

22 A Without -- if you's a civilian, you're not part of the
23 BGF, whatever they decide to do, they do. But if it's
24 something major and that civilian is part of another
25 organization, like a Blood, Crip, or another type of

1 organization, and he does something, you got to think, if I do
2 this, what is the consequence afterwards, okay, what is the
3 repercussion? Am I going to sit here and go to war with this
4 side of people over some nonsense?

5 Q Understand.

6 A That case, that was an individual, that was civilian
7 because it was never proven that Moses was a Blood.

8 Q Okay. Now, in -- you said that in 2013, I think you said
9 that you moved to the Greenmount area; is that right?

10 A 2012, 2013, in a minute on the date, approximately around
11 there.

12 Q How long had you lived in Greenmount before Moses Malone
13 was killed?

14 A How long I was living there?

15 Q Yeah.

16 A I was living in Greenmount area for probably about six or
17 seven months.

18 Q Six or seven months, okay. So when you got to -- let me
19 ask you this: Why did you move to Greenmount, were you asked
20 to move to Greenmount?

21 A No. I moved to Greenmount because the simple fact it was
22 a cheap place to rent and that's when I ended up moving there.
23 Because I met the landlord, had dinner with him, other little
24 business before. And I get in that location where I can lay
25 my head at. And then I end up meeting the brothers around

1 there like Geezy, Country, and the rest of them that actually
2 be around there.

3 Q When you first moved to BG -- to Greenmount, were you
4 still working for Uncle Perry?

5 A Yes.

6 Q You were. So did you commute from Greenmount to
7 Uncle Perry?

8 A I was still working for Uncle Perry, but as Uncle Perry
9 healed up, he didn't need me as much driving him around and
10 stuff. Because Uncle Perry got shot on Pennsylvania Avenue
11 and North Avenue, that area, so he was riding around in a
12 wheelchair pretty much. But as he healed, he didn't need
13 nobody personally driving him, helping him get in and out of
14 the vehicle and stuff like that.

15 Q So you moved to Greenmount. And did you talk with -- at
16 the time were you working as an informant?

17 A Correct.

18 Q And working for what agency?

19 A ATF.

20 Q ATF. For Agent Hayden?

21 A Yeah.

22 Q Did you consult with him before you moved to
23 Greenmount?

24 A No. I consult and started dealing with Agent -- I mean,
25 Hayden after I moved to Greenmount.

1 Q Okay. All right. So you moved to Greenmount and you met
2 BGF members in the neighborhood?

3 A Correct.

4 Q How did you do that?

5 A It's just meeting people in the neighborhood.

6 Q You just went out and introduced yourself to people?

7 A I didn't introduce myself. Some people introduced
8 theirselves to me, just -- I always lived over east side, pretty
9 much grew up in foster homes and all that on the east side, so
10 always a lot of people knew me on the east side. So people
11 introduced me to other people. And then also dealt with
12 Hot Rod, which was like pretty much in charge of the whole
13 east side area as a senior bush member. So Hot Rod was the
14 one who introduced me to Country and certain other people,
15 because the same person, Woo, tried to put a hit out on me and
16 tried to use the same -- tried to use Geezy and Country and
17 that regime to hold me because he was mad because he still
18 ain't get the position that I had dealing with Uncle Perry.

19 Q Who introduced you to --

20 A When Hot Rod came down there, he verified who I was and
21 stuff like that, that's when I started dealing with a bunch of
22 brothers from Greenmount.

23 Q All right. Who introduced you to Mr. Johnson?

24 A Huh?

25 Q Who introduced you to Mr. Johnson?

1 A Country.

2 Q Country did?

3 A The first one I met around there was Country. And I
4 started meeting everybody as individuals later on that time,
5 but you talked about Geezy --

6 Q How soon after you moved to Greenmount --

7 A -- I met Geezy in prison.

8 THE COURT: Let him answer the question. Go ahead.
9 You may finish.

10 A I met Geezy in prison. Geezy know me from the
11 penitentiary.

12 Q (BY MR. ENZINNA) What prison?

13 A The penitentiary.

14 Q Is that what it's called?

15 A The old penitentiary right next to Central Booking, the
16 penitentiary.

17 Q When was that?

18 A Back in, I want to say '08, '09.

19 Q Okay. And were you housed in the same part of the
20 prison?

21 A Well, we was on probably the same side but not the same
22 tier.

23 Q Okay. So how did you meet him?

24 A I was locked up, he was locked up, and he did what he did
25 and then I had the status I had in the Nation of Islam. So

1 you inside the prison system, you up there in different --
2 doesn't matter religious organization, groups, and stuff like
3 that, everybody end up knowing who's pretty much in charge of
4 what and what's what and who's what and what's going on.

5 Q Okay. So how did you meet Mr. Johnson?

6 A In prison.

7 Q I understand where you met him.

8 A That's the first time I met him. Then I ran across him
9 again on the street when I moved to Greenmount.

10 Q But did you meet him in the rec yard, did you meet him in
11 a cafeteria?

12 A On the tier.

13 Q On the tier. I thought you weren't on the same tiers.

14 A No, but still you could walk the tiers. The flat landing
15 is a tier. It's not a rec hall in the penitentiary. It's --
16 you got two -- one, two where you at, it's two sides,
17 everybody go to the flats. The flats is also a tier for the
18 first level tier. But that is considered a rec area too, but
19 it's also considered a tier.

20 Q So you walked to Mr. Johnson's cell?

21 A No, just met him in the midst of they know what I dealt
22 with in the Nation, talking to people, lot of people in BGF
23 come to Nation of Islam service, meet up and stuff like that.
24 They use the Nation of Islam or the Lost and Found Nation of
25 Islam, that would be the cover for them to meet up for their

1 meetings in the prison system.

2 Q So did you meet him at a Nation of Islam service?

3 A No, I just met him out and about on the tier.

4 Q While you were just mingling?

5 A Not even mingling, I just met him. I didn't hang with
6 him because some people I just don't directly -- was hanging
7 with like that in prison.

8 Q Well, let's talk about 2013 when you moved to Greenmount.
9 You said Country was the first person you met?

10 A Correct.

11 Q How soon after you moved there did you meet him?

12 A I probably met Country probably like a week later after I
13 moved there.

14 Q Okay. So you said that you moved to Greenmount about six
15 months before Mr. Malone was killed; correct?

16 A Around -- approximately around that time.

17 Q Okay. So Mr. Malone was killed in May, I believe, so you
18 would have moved to the Greenmount in November?

19 A Approximately around that time.

20 Q So late in 2012?

21 A I'm going to say approximately because you're talking
22 about from a long occurring event, exactly what day did I move
23 somewhere. So I'm going to say approximately around that
24 time.

25 Q Sure. And you said Country introduced you to

1 Mr. Johnson?

2 A Correct.

3 Q But you already knew him?

4 A Right.

5 Q Where did he introduce you to him?

6 A On Greenmount.

7 Q On the street?

8 A On the street.

9 Q Okay. Can you describe Mr. Johnson at that time?

10 A Okay. You want me to describe -- no offense -- that man
11 over here is about 6'3", he's almost 300 pounds. He always
12 have a big long beard with dreads or braids in his hair. You
13 cannot mistake that man.

14 Q Okay. Anything else unusual about his appearance?

15 A No. He -- you can't mistake somebody that's almost 6'3",
16 300-some pounds, and always joking around and playing around
17 and all that, you cannot mistaken -- nobody identity like
18 that.

19 Q Okay. He wasn't using a walker or on crutches?

20 A No.

21 Q Now, it's true, is it not, that you never paid any dues
22 to Mr. Johnson for BGF?

23 A No. I was never a part of their regime.

24 Q So it is true?

25 A It's true, I never paid no money to him because I wasn't

1 part of their regime. Only people had to pay anything to
2 Mr. Johnson and his bubble is those that are directly
3 underneath his regime. Now, what me and Tech used to do is,
4 because we was hustling in their neighborhood, out of respect,
5 if they needed help with something, we would give them a
6 couple dollars, something like that. Couple people might come
7 around with their personal problems, we might look out for
8 them and give them a couple dollars. But directly paying to
9 their regime, no.

10 Q You're familiar with the concept of taxes; right, are
11 you?

12 A Yeah.

13 Q That if someone is in an area controlled by an
14 organization and they're selling drugs outside that
15 organization, they might have to pay a tax; right?

16 A Correct. But in my situation I don't pay no taxes
17 because the simple fact you cannot charge another brother
18 taxes that's in the organization because technically nobody
19 own nothing.

20 Q Okay.

21 A So therefore, you know, it's another brother, you cannot
22 charge a tax to another brother, even though you do got some
23 people that try to do it. But they would just be dumb just to
24 go ahead and pay it when you can take it up to the upper chain
25 of command.

1 Q Okay. How often did you see Mr. Johnson in this
2 period?

3 A I probably would see Mr. Johnson probably at least once a
4 day as either going past, speaking, talking, or whatever the
5 situation was at the time.

6 Q Okay. You never taped any conversations with him, did
7 you?

8 A You said tape?

9 Q Yes, sir.

10 A No.

11 Q Now, you were also -- at this time you were selling drugs
12 in the neighborhood; right, you and Tech?

13 A Correct.

14 Q And you were also running an escort service, I believe?

15 A Doing security, yeah.

16 Q Well, were you doing security or running an escort
17 service?

18 A Doing security for an escort.

19 Q Did you tell the prosecutors last night that you ran an
20 escort service?

21 A Well, really doing security because I can't force nobody
22 to do nothing, never have forced nobody, so running
23 security.

24 Q Now, you said that -- we talked a little bit about
25 Moses Malone and you said that he owed Tech some money and

1 that Tech sent, I believe that you said Mr. Handy, to rob
2 him?

3 A Mr. Norman, that's what I know him by Norman. Other
4 names I don't know. I just know Norman. Just like Geezy, I
5 don't know Geezy's whole name until you keep saying. I know
6 him by Geezy. I know Slay by Slay. I don't know his real
7 name. I know Hood by Hood. I know individuals by the
8 nicknames. Just like they didn't know who my true identity
9 was until today. Only thing they knew me by was Black Man,
10 not my government but Black Man.

11 Q Understand. So if Tech instructed Mr. Norman to rob
12 Mr. Malone, if Mr. Malone believed that Mr. Johnson, or as you
13 know him, Geezy, sent Mr. Norman to rob him, that would be
14 incorrect, wouldn't it?

15 A Can you please repeat that?

16 Q If Mr. Malone believed that Mr. Johnson sent Mr. Norman
17 to rob Mr. Malone, that would be incorrect; correct?

18 A That would be incorrect because Tech was the one who
19 asked Norman and told Norman, look, he got some money in his
20 pocket, he got some weed on him. And they like to smoke weed,
21 get high off Percocets and all different type of stuff, and so
22 Norman went and robbed.

23 Q Okay.

24 A Mr. Johnson, as in Geezy, did not send him to go rob
25 Norm.

1 Q Great. Now, you said that --

2 A Tech did.

3 Q -- after the robbery, Mr. Malone talked to you and said
4 that he was trapped by the robbers in the alley; is that
5 right?

6 A Well, I was told they -- he told me that they robbed him,
7 Norman robbed him and then he shot at him. And Norman told me
8 he shot that -- he made a mistake just shooting at the ground
9 just to scare him, but it ricocheted and a fragment hit him.

10 Q But my question is, he told you that happened in the
11 alley; correct?

12 A Yeah.

13 Q All right. We talked earlier also about the search
14 warrant for your residence?

15 A Correct.

16 Q And you said that when you got back from the police
17 department, the warrant papers were there in your residence
18 and Tech saw them?

19 A Correct.

20 Q And you said then that Tech called Geezy?

21 A Correct.

22 Q Whose phone did he use?

23 A His own.

24 Q His own phone. Okay. And you said that then you and
25 Tech -- you walked with Tech, Tech took the papers and left

1 your house; correct?

2 A Correct.

3 Q And walked over to where Geezy was?

4 A Correct.

5 Q And you went with him?

6 A Correct.

7 Q And then you stayed on the street or on the sidewalk,
8 where were you. As he went up to the door, where were you?

9 A I was on the sidewalk.

10 Q Okay. How far away were he and Geezy?

11 A Was me in the door where Geezy was?

12 Q No, how far away were you from Geezy and Tech?

13 A And Tech?

14 Q Yeah.

15 A Okay. If you're familiar with city homes, inside of the
16 row homes, I'm going to say, it's one, two, three, three steps
17 and it might be an extra little step to get up in the doorway.
18 I'm going to say less than four feet, as Tech went to go knock
19 on the door and stepped in the doorway.

20 Q Okay. So you could hear what they said?

21 A Well, they shut the door.

22 Q Okay. But Tech handed Mr. -- handed Geezy the search
23 warrant?

24 A Correct.

25 Q On the steps?

1 A Correct.

2 Q Okay. Did you ever tell the -- did you ever tell any
3 representatives of the United States Attorney's Office or ATF
4 that you did not see Tech hand the search warrant to
5 Mr. Johnson?

6 A My statement always been the same since day one. Me
7 and -- me and Elliott Reed, which is Tech, walked around there
8 and hand -- and Tech handed Geezy the letter, or the warrant,
9 the copy papers of the warrant and statement, because of what
10 happened with -- Norman and Mo started telling because they
11 kept pushing up on him.

12 Q So you don't remember telling them that you never
13 actually saw Tech hand the search warrant to Geezy --

14 A No, I always say I --

15 Q Please let me finish my question.

16 A -- went with him and he handed --

17 THE COURT: Hold on just a second. Mr. Enzinna, you
18 may finish your question. Ask your question.

19 Q (BY MR. ENZINNA) You don't remember telling them that
20 you never actually saw Tech give the paper to Geezy, but you
21 just assumed that he did?

22 A You are incorrect because since day one I been saying the
23 same thing. Me and Tech went around there, Tech handed Geezy
24 the letter, and they stepped inside to talk about whatever it
25 is because I was not -- Tech, Elliott Reed, had more clout

1 around Greenmount than I had. You know what I mean? So never
2 to blow my cover, I don't intrude into stuff. When you
3 intrude in stuff and you be nosey, that's when you blow your
4 cover. When I sat there and I seen it and they shut the door
5 because of the weather condition, whatever it was at the time,
6 they talking about other stuff that's happening around
7 Greenmount, which I don't need to know until it comes to my
8 attention. So therefore, I did not step in the location, but
9 I seen him hand Tech the search warrant -- I mean, hand Geezy
10 the search warrant. Tech handed Geezy the search warrant,
11 that I seen.

12 Q Thank you. But my question was, do you remember telling
13 the United States Attorney's Office --

14 MR. MARTINEZ: Objection. Asked and answered
15 twice.

16 THE COURT: Overruled. Go ahead, Mr. Enzinna.

17 Q (BY MR. ENZINNA) Do you remember telling --

18 A For about the fourth time, I'm saying the same thing. I
19 seen and went with Tech while he handed him the search warrant
20 at the door and they went inside and whatever discussion
21 was -- and came out.

22 Q So you are saying you do not remember telling them
23 that?

24 A No, I don't.

25 Q You don't. Is there anything I could show you that would

1 refresh your recollection?

2 A No, because I recall me always saying me and Tech went
3 and he handed Geezy the letter.

4 Q All right. So after they went inside, what did you do?

5 A I was outside waiting for Tech.

6 Q You waited for him?

7 A For a couple minutes.

8 Q Was Country with Geezy at that time?

9 A I have no recollection who else was inside that house at
10 that time because I was not inside the house. The only person
11 came to the door was Geezy.

12 Q Do you recall meeting with ATF agents and representatives
13 of the U.S. Attorney's Office in June of 2013?

14 A If that was the date. It's a possibility it was that
15 date, can't tell you.

16 Q Do you remember telling them that Tech took the warrant
17 to Geezy and Country?

18 A I said Tech took the warrant because I walked with him,
19 to Geezy and hand it to Geezy. I didn't talk to Country until
20 after the fact.

21 Q Okay. So you don't remember telling them that Tech took
22 the warrant to Geezy and Country?

23 A I know Country was informed because he was the MOJ. But
24 all I can say out of my mouth is what I've been saying is --
25 for the hundredth time for you and I'm not going to change my

1 story and I'm telling you the truth: I walked with Tech,
2 which name is Elliott Reed, to your client, Mr. Geezy,
3 whatever his real government name is, which I really don't
4 care, no offense, you know what I mean, because I know him as
5 Geezy, and watch Elliott Reed put the search warrant, with the
6 statement the detective left on the counter in Tech (sic) hand
7 and they went inside and talked for a couple minutes. And
8 then Tech came back out and told me he got a green light.

9 Q So if somebody says you didn't see him hand the search
10 warrant to Geezy, that would be wrong; correct?

11 A It would be wrong because I know what I saw.

12 Q And if somebody says that you told them that Country was
13 there, that would be wrong too?

14 A It would be wrong because I never said Country was there.
15 I only said that we went to go take it to Geezy.

16 Q Okay. Do you remember telling the ATF agents that
17 Country told Geezy there was a green light to kill Malone?

18 A You said what?

19 Q Do you remember telling the ATF agents that Country told
20 Geezy that there was a green light to kill Malone?

21 A So let me refresh what you just said, right. You just
22 said, if I'm not mistaken, because I can barely hear you over
23 there, you're trying to play, you know, little lying tricks.
24 You just say that I said that Country told Geezy there's a
25 green light. How is Country going -- that's the MOJ at the

1 time, going to tell the C what to do, and it's the final call
2 of the C, which is your client, that issued the green light in
3 the death of Moses Malone, when he could have been -- that's a
4 bunch of bull crap.

5 Q Can you hear me better if I do this?

6 A Yeah.

7 Q Okay. So if someone wrote down that you told them that
8 Country told Geezy that there was a green light, that would be
9 wrong; right?

10 A Correct. Because Country is under Geezy and Geezy was
11 the only one able to give that order because he's the C.

12 Q Now, let me make sure I understand what you were saying
13 earlier about guns; right?

14 A Uh-huh.

15 Q You talked earlier about a number of guns that were
16 involved in the shooting of Moses Malone; right?

17 A First of all, he got hit with one gun.

18 Q Okay.

19 A And that was a .22 revolver, if I'm not mistaken. The
20 exact revolver ain't never came to my fault but come through
21 the sources, it was the same .22.

22 Q Okay. And did you give that .22 to somebody, did I
23 understand that correctly?

24 A First of all, I ain't have possession of that .22. I
25 didn't have possession of none of their guns.

1 Q Okay.

2 A Anything else?

3 THE COURT: Don't say --

4 THE WITNESS: My fault, Your Honor.

5 THE COURT: You're going to get in trouble --

6 THE WITNESS: I apologize.

7 THE COURT: Just answer the questions.

8 Q (BY MR. ENZINNA) Now, you said the night of the shooting
9 Country came to your apartment and asked to use your phone?

10 A Correct.

11 Q And you said that he asked to use your phone because he
12 didn't have a phone?

13 A Yes. I guess that's what the case is, he asked to use my
14 phone.

15 Q Well, that's what you said earlier today, wasn't it?

16 A Yeah, he asked to use my phone.

17 Q Do you remember testifying before the grand jury on
18 February 24th, 2016?

19 A It could be around that time. Which grand jury?

20 Q Okay. Do you remember being asked this question and
21 giving this answer:

22 "Question: And did there come a time when Country
23 joined you in the house?

24 "Answer: Well, Country was pretty much -- was there
25 pretty much throughout the day. He had left out, then later

1 on that night, he ran up in the house. And when he ran up in
2 the house, he was on the phone with somebody. And then he got
3 off the phone, then he was saying he needed to use my phone.
4 So I let him use my throwaway -- and then I let him use my
5 throwaway. He called Mr. Wes up."

6 Do you remember that?

7 A Well, Country was there earlier that day. Country also
8 was there probably the day before that. The day before that
9 because Country not just only know me in the household because
10 rooms for rent, he knows multiple people that live in that
11 household. So have Country been in that house probably
12 earlier that day? Yes, it's a possibility. And it's been a
13 possibility he was over there plenty of other times because
14 the simple fact he lives in the neighborhood. He mess with
15 the girl next door and he was messing with one of the other
16 girls that was renting one of the other rooms in my house. So
17 yeah, I run across Country all the time before he got
18 killed.

19 Q Okay.

20 A But as in what the case is, he asked to use my phone, I
21 let him hold my phone. Reason why I let him hold my phone,
22 because the simple fact if you're dumb enough to break some
23 law, I'm going to have that number -- to go ahead and give the
24 ATF that number that you dialed, which in your case -- that's
25 how dumb it was. When he called off my phone, I showed them

1 the call log on my phone, and they was able to probably
2 retrieve the bill with the number on there. So anything --
3 yes, I would let him use the phone. I would let the next
4 person, if they dumb enough to use my phone, do it.

5 Q Okay. But here's my question: Today you said that
6 Country didn't have a phone. And in front of the grand jury
7 you testified that --

8 A Well, I didn't see him with a phone, he asked to use my
9 phone.

10 THE COURT: Let him finish his question. Go
11 ahead.

12 Q (BY MR. ENZINNA) Earlier today you testified that
13 Country came in and asked to use your phone because he didn't
14 have a phone. And in February of 2016, under oath before the
15 grand jury, you said that when Country came in the house he
16 was already on the phone and then asked to use your phone.
17 Now, those two things are -- one of those things is not
18 correct; right?

19 A Well, like I said, he asked to use my phone. Was he on
20 somebody else's phone, you know, he asked to use my phone, so
21 I allowed him to use my phone. But me personally, I didn't
22 know of him ever having a phone because he was always asking
23 to use somebody's phone. So if you would have asked me back
24 then for a number on Country, I would not be able to give you
25 a number on Country because to my understanding, he ain't have

1 no phone. But do he use other people phone to have other
2 people call? Yes, it's a possibility.

3 Something that happened a long time ago like that, could
4 he have been on the phone when he came in using somebody
5 else's phone? Yeah, but he asked to use my phone, so
6 therefore, I let him use my phone. And that's why Wes number
7 is on my phone. That's why when you dig up and they --
8 whatever information they gave you, they came across with
9 Wes's phone number and a couple of minutes before the murder.

10 Q The night that Mr. Malone was killed, you did not see
11 Geezy, did you?

12 A The night of the death of Moses, no, not to my
13 recollection. But could I have seen him in passing throughout
14 the day? Who knows. But as in me having a whole long
15 conversation, hanging out with him, I never did like that. I
16 see Geezy in passing, speak to him out of respect, ask him if
17 he need help with something, whatever, then I keep going on
18 about my business.

19 MR. ENZINNA: Your Honor, may I ask the Court's
20 indulgence?

21 THE COURT: Yes.

22 MR. ENZINNA: Your Honor, nothing further.

23 THE COURT: Mr. Bussard.

24 MR. BUSSARD: Thank you, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. BUSSARD:

2 Q Good afternoon, Mr. Caesar.

3 A Good afternoon.

4 Q I represent the gentleman down to the far right in the
5 white shirt that you've been calling Slay. Can we agree to
6 call him Mr. Jones today?

7 A I only know him as Slay.

8 Q I'm asking you if you can agree to call him Mr. Jones,
9 since the government has been referring to you as Mr. Caesar.

10 MR. MARTINEZ: Objection.

11 THE COURT: Sustained.

12 THE WITNESS: I don't know him as Mr. Jones --

13 THE COURT: Just stop talking while the judge is
14 talking. You can't interrupt the judge. If you do, you're
15 going to get in trouble.

16 THE WITNESS: Sorry, about that, Your Honor.

17 THE COURT: The objection is sustained. The witness
18 indicated how he knows the defendant. He's entitled to refer
19 to him in a way that he knows him and to not accept some other
20 title if it's not otherwise known to him. You may inquire.

21 MR. BUSSARD: Thank you, Your Honor.

22 Q (BY MR. BUSSARD) The government counsel and one of the
23 defense counsel has asked you about your record and I'm not
24 going to dwell on it, but I do want to bring up one point.
25 You indicated in response to government's questions that you

1 were arrested the day after Mr. Malone was killed; correct?

2 A Correct.

3 Q And that was for selling to an undercover officer?

4 A Correct.

5 Q And you went to one of the Baltimore City facilities?

6 A Correct.

7 Q Correct? And I believe you also testified a few minutes
8 ago that you made bail; correct?

9 A Correct.

10 Q And that bail was about \$25,000?

11 A I'm not sure the exact amount.

12 Q And who paid that bail?

13 A Somebody that's able to get access to money I'm not.

14 Q And was that money you obtained from selling narcotics on
15 the street?

16 A Could be obtained by working too.

17 Q I'm asking you, where did that money come from?

18 A Working.

19 Q Working how?

20 A How? The last time -- at that time I was working for a
21 construction company and I was still doing private security on
22 the side.

23 Q So you had private security, construction, and you were
24 selling drugs on the corner; correct?

25 A Well, technically only reason I was selling drugs was the

1 simple fact the same way as an undercover cop would have to.
2 You have to have identity underneath you, you got to break law
3 to sit there to get the person, the targets that you have
4 to -- you know what I'm getting at. So in other words, that
5 was the way into an organization. And that's the way I went
6 into that organization and to infiltrate the organization for
7 the bigger better picture.

8 Q So the drugs you were selling to the undercover officer
9 on May 3rd, 2013, did those drugs come from law enforcement?

10 A No.

11 Q Did they come from some illegal source on the street?

12 A Perhaps.

13 Q Okay. And you were selling nickels and dimes, was
14 that -- is that an accurate statement?

15 A I was selling drugs.

16 Q Okay. Crack?

17 A Yeah.

18 Q Heroin?

19 A Nope.

20 Q Weed?

21 A Yup.

22 Q And you were making some money off of that?

23 A Yeah.

24 Q And you were an informant while you were making money; is
25 that correct?

1 A Correct.

2 Q Did you have to turn in your profits at the end of every
3 day to Mr. Hayden, Special Agent Hayden, or to Special Agent
4 Christy here?

5 A Hold on a second.

6 THE WITNESS: Your Honor, I don't know --

7 THE COURT: You can't ask me a question.

8 THE WITNESS: If I answer anything about where you
9 trying to go at -- I do know one thing about the law, I plead
10 the 5th. Anything about me breaking the law, anything like
11 that, I plead the 5th and my stuff is registered on paper.

12 MR. BUSSARD: Your Honor, may we approach?

13 THE COURT: Take the jury out.

14 (Jury left the courtroom.)

15 THE COURT: Mr. Caesar, you'll step out of the
16 courtroom, just in the vestibule. Don't go anywhere.

17 THE WITNESS: Thank you.

18 THE COURT: Be seated, please. Make sure that door
19 is shut tight. Thank you. Witness is out of the courtroom.
20 The jury's out of the courtroom. The witness has invoked the
21 5th Amendment.

22 Mr. Martinez, your thoughts about how the Court
23 ought to next proceed?

24 MR. MARTINEZ: As I stand here, Your Honor, I'm not
25 sure there is any valid 5th Amendment privilege for him to be

1 invoking. He's testified now freely about having committed
2 that offense and having sold drugs routinely in the
3 Greenmount Avenue neighborhood throughout 2013. And so to the
4 extent that he may have -- I know he's not under a cooperation
5 agreement, there's no kind of immunity, et cetera, but to the
6 extent he may have had any 5th Amendment privilege, I think
7 it's been waived long ago by virtue of his testimony on direct
8 and thus far on cross-examination. So --

9 THE COURT: So probably, but does he have a lawyer?

10 MR. MARTINEZ: He does not.

11 THE COURT: I think he needs one.

12 MR. MARTINEZ: That's probably not a bad idea.

13 THE COURT: All right. So what's the status of the
14 Federal Public Defender with respect to this matter?

15 MR. MARTINEZ: It's compli- --

16 THE COURT: If you know.

17 MR. MARTINEZ: Well, I know that when we were first
18 charging the case and considering who may have conflicts, we
19 were aware -- I think this came out, in fact, during the
20 examination of Mr. Meadows. I know it was certainly in the J
21 and C -- I forget which defense counsel had it, was trying to
22 introduce a J and C from his violation of supervised release.
23 Mr. Meadows was represented by the Federal Public Defender.
24 And I know they've had other BGF-related clients who sort of
25 are on the periphery of this organization. So we steered

1 clear of them for conflict purposes at the beginning of this
2 case. I can't imagine it would be the greatest idea now.

3 THE COURT: Right. Okay. So my conclusion is that
4 we cannot proceed further with his cross-examination until he
5 has counsel and we resolve this invocation of the
6 5th Amendment. In light of that, is the government's
7 preference that we stop for today and attempt to pick up
8 tomorrow if this witness is going to continue to testify, with
9 right where we are, having brought counsel into the equation
10 and addressed the issue? Is it counsel's request that we
11 simply stop this particular examination, go on to another
12 witness, meanwhile, allow for the witness, Mr. Caesar, to meet
13 with his lawyer and separately later conduct a hearing outside
14 the hearing of the jury to resolve the question of whether the
15 5th Amendment has been lawfully invoked or not, then after
16 that determine where do we go from there? What's your
17 preference, you want to stop for the day or do you want put
18 him on the side and go --

19 MR. MARTINEZ: Your Honor, I'm certainly sensitive
20 to the Court's time and the jury's time. And I know
21 Your Honor has reminded us early in this case about the
22 resources that go into this on a daily basis. Notwithstanding
23 all of that, I think it's our strong preference to stop. I
24 hope and expect that this is something that can be addressed
25 efficiently so that we can get Mr. Caesar back on the stand to

1 pick up where we've left off. I think from the jury's point
2 of view, that will result in the least confusion. We'll be
3 able to pick up the story right where we are, rather than
4 injecting another witness and putting Mr. Caesar back on. So
5 from our point of view, as the party presenting the evidence
6 and the party with the burden of proof, I think that that
7 option, proceeding in that manner, makes the most sense in
8 terms of presenting a coherent story.

9 THE COURT: Well, I'm prepared within reason to
10 defer to your preference because we're in your case. So we'll
11 do that. We'll bring the jury back into the courtroom. I'll
12 excuse them for the day. Once they have been excused -- call
13 Maureen Essex, ask her to come to the courtroom, please.

14 Once they have been excused for the day, then we'll
15 immediately take up the problem of arranging for counsel for
16 the witness. Hopefully we can get counsel here quickly. And
17 we'll plan to reconvene at about 4:45 or so to take up the
18 invocation of the 5th and allow the Court the opportunity to
19 rule on that. And then hopefully have ourselves situated for
20 tomorrow morning. That's my general plan at this point.
21 Okay. With that in mind, let's bring the jury back in.

22 (Jury entered the courtroom.)

23 THE COURT: Be seated, please. Ladies and
24 gentlemen, there are some matters that I need to address with
25 the lawyers outside of your hearing. Accordingly, we will

1 stop for today and send you home with the direction to return
2 tomorrow at 9:30, as usual.

3 During the overnight recess do not discuss the case
4 with anyone. Do not discuss it with your fellow jurors. Do
5 not discuss it with any of your friends or family. Do not
6 allow yourselves to be exposed to any news articles or reports
7 that touch upon the case or the issues it presents or the
8 participants in the trial. Avoid all contact of any kind with
9 any of the participants in the trial. Do not make any
10 independent investigation of the law or the facts relevant to
11 the case. Do not conduct internet searches with respect to
12 the issues presented or the persons participating in the
13 trial. Do not consult external sources such as encyclopedias
14 or dictionaries in reference to the issues and terms that have
15 been presented to you here.

16 You are excused until 9:30 tomorrow morning. Please
17 take the jury out.

18 (Jury left the courtroom.)

19 THE COURT: Bring the witness back into the
20 courtroom. You may be seated. You may be seated, Mr. Caesar.
21 Mr. Caesar, under the 5th Amendment to the United States
22 Constitution, you have the absolute right to not be compelled
23 to give testimony about a matter or on a topic with respect to
24 which your answer might tend to incriminate you. Do you
25 understand what that means?

1 THE WITNESS: Yes, sir.

2 THE COURT: So I'm advising you that you absolutely
3 and positively have that right. During your testimony a few
4 minutes ago when the jury was still in the courtroom, in
5 response to a question that was put to you by one of the
6 lawyers on cross-examination, in my view, you invoked your
7 right under the 5th Amendment to the Constitution to not
8 answer a question or part of a question on the ground that you
9 felt that the answer might tend to incriminate yourself. Is
10 that what happened?

11 THE WITNESS: Yes, sir.

12 THE COURT: Okay. And so now that presents the
13 question of whether or not your invocation of your
14 5th Amendment right was lawful and appropriate in the
15 circumstances, given the situation that you are in. I'm not
16 saying lawful in the sense of like criminal and lawful,
17 something like that. It's whether or not it was appropriate,
18 whether or not the law allows you to invoke the 5th Amendment
19 in the circumstances that you're in. That question is now
20 presented to me as the judge to decide. I decide whether or
21 not that's legit, whether or not the witness can refuse to
22 answer the question that's been put to him by invoking his
23 5th Amendment right. And there's some legal considerations to
24 take into account before I resolve that question.

25 But before we even get to that point, it strikes me

1 that you might benefit from receiving advice from a lawyer who
2 represents you and only you. Doesn't represent the
3 government, doesn't represent any of these defendants here,
4 simply represents you. And someone with whom you can
5 privately consult about whether or not you wish to and are
6 allowed to invoke your 5th Amendment right in the situation
7 that you are in.

8 Accordingly, I'm prepared to appoint a lawyer at no
9 cost to you to represent you and to advise you privately on
10 that question. And then after that has occurred and only
11 then, take up the question of whether or not you in fact can
12 invoke the 5th Amendment and the related question, after
13 you've received that advice of whether you want to invoke the
14 5th Amendment. So given that I am prepared to appoint a
15 lawyer to assist you in that regard, your own lawyer, who
16 would represent you and only you in this situation, do you
17 request that I do that?

18 THE WITNESS: Just to speak to counsel --

19 THE COURT: Yes.

20 THE WITNESS: Yes.

21 THE COURT: Very well. Now you may step out of the
22 courtroom, back to the vestibule. Please don't go anywhere.

23 THE WITNESS: Thank you. Sorry about that,
24 Your Honor, that's what I was trying to ask you, but I
25 know --

1 THE COURT: No problem. Just step on out. We have
2 to do things according to certain procedures. Off the
3 record.

4 (Pause in the proceedings.)

5 THE COURT: We're going to take a recess until 4:30,
6 at which time we will hear from Mr. Caesar through his
7 counsel, Mr. Proctor, who has just been appointed to represent
8 him, whether in fact he truly is invoking the 5th Amendment or
9 not. And if he is invoking the 5th Amendment, then we're
10 going to turn to the question of whether he can invoke the
11 5th, given the status of the case. And in that regard, I'll
12 ask the court reporter to be as flexible as she can be in
13 supplying Mr. Proctor, in particular, with at least the rough
14 notes of what has transpired while Mr. Caesar has been on the
15 witness stand, given that Mr. Proctor wasn't in the courtroom.
16 So we're going to take a recess until 4:30. At 4:30 we'll
17 first hear whether or not there is in fact an invocation of
18 the 5th. There already has been one. The question is whether
19 or not the witness is going to persist. If he does, then
20 we'll turn to the question of whether or not it's a lawful
21 invocation or whether there's been waiver given the testimony
22 already given in this proceeding. The defendants are
23 remanded. Counsel are excused until 4:30.

24 (A recess was taken.)

25 THE COURT: Be seated, please. Mr. Proctor.

1 MR. PROCTOR: Thank you, sir.

2 THE COURT: You represent the witness, Mr. Caesar;
3 is that correct?

4 MR. PROCTOR: Yes, sir, it is.

5 THE COURT: Having been appointed earlier this
6 afternoon to do so; true?

7 MR. PROCTOR: Correct.

8 THE COURT: So have you had an opportunity to
9 consult with your client in relation to his testimony here in
10 this trial?

11 MR. PROCTOR: Yes, sir.

12 THE COURT: And what is his position with respect to
13 a desire to invoke his rights under the 5th Amendment to the
14 constitution and decline to answer questions being put to him
15 during cross-examination by Mr. Bussard?

16 MR. PROCTOR: His position is he intends to be back
17 in the morning and will answer all questions put to him
18 regardless of who asks him.

19 THE COURT: So there is no longer any invocation of
20 the 5th Amendment?

21 MR. PROCTOR: Absolutely.

22 THE COURT: Okay. And is he still in the vestibule?

23 MR. PROCTOR: He is right outside.

24 THE COURT: Okay. Would you ask him to join us here
25 in the courtroom?

1 MR. PROCTOR: Yes, sir. Would you like him at the
2 podium or the witness stand?

3 THE COURT: We'll just take him on the witness
4 stand.

5 MR. PROCTOR: Yes, sir. May I be next to him?

6 THE COURT: Yes. Right back up here, Mr. Caesar.
7 And you can go ahead and take a seat in the witness stand and
8 your lawyer is seated nearby and if you wish to stop at any
9 point during my questioning of you to talk with your lawyer,
10 just indicate that you want to stop for a second and talk to
11 your lawyer, we will stop and allow you to communicate with
12 him.

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: In private. Do you understand that?

15 THE WITNESS: Yes, sir.

16 THE COURT: So earlier this afternoon when -- you
17 were being cross-examined by Mr. Bussard, counsel for
18 Mr. Jones; correct?

19 THE WITNESS: Correct.

20 THE COURT: And he had pursued a line of questions
21 and some of it related to prior involvement in the sale of
22 controlled substances, such as cocaine and heroin, do you
23 remember that?

24 THE WITNESS: Correct.

25 THE COURT: And while you were answering questions

1 in that regard, you invoked your right under the 5th Amendment
2 to the United States Constitution to not answer questions, the
3 answers to which might tend to incriminate you. Do you
4 remember all that?

5 THE WITNESS: Yes, sir.

6 THE COURT: All this occurred; right?

7 THE WITNESS: Yes, sir.

8 THE COURT: And then we had a pause in the
9 proceedings and then you came back into the courtroom and you
10 and I spoke a little bit more about the fact that you had
11 invoked your right under the 5th Amendment to the
12 constitution. Do you remember that?

13 THE WITNESS: Yeah.

14 THE COURT: We had that additional conversation, and
15 during that conversation you affirmed what you had said
16 earlier in that you wished to invoke your 5th Amendment;
17 right, is that all true?

18 THE WITNESS: Well, some of it was -- I don't
19 understand.

20 THE COURT: You don't understand because I'm using
21 too much legal language.

22 THE WITNESS: All I want -- no question due to --
23 because what I was doing -- something happened in the past. I
24 just wanted to verify, just like when I was trying to talk to
25 you, but you couldn't because all the people was here. I just

1 wanted to see if I could speak to my attorney first on certain
2 situations, but nothing get crossed over, anything like that.
3 I spoken to an attorney after -- continue to testify in the
4 trial. I just wanted to make sure something was verified.

5 THE COURT: All right. So you're --

6 THE WITNESS: Because the way I felt was -- the way
7 I was coming at is, like you're trying to ambush me or
8 something, which I wasn't in the wrong, which I was able to do
9 at the time, so I didn't want to say before I got -- just to
10 make sure everything was correct.

11 THE COURT: Yes, I --

12 THE WITNESS: That's why I needed that moment, time
13 out to speak to an attorney, ask my attorney to verify the way
14 I can continue to testify.

15 THE COURT: I understand what you're saying to me
16 because -- but still bear with me because I want to take this
17 through a very simple analytical process. So backing up to
18 where I was. You recall that I brought you back into the
19 courtroom after I sent the jury away; right, and you came back
20 into the courtroom?

21 THE WITNESS: Yes, sir.

22 THE COURT: And I asked you then if you wished to
23 assert the 5th Amendment, take the 5th, I asked you if you
24 wished to take the fifth and you said words to the effect that
25 yes, you wanted to take the 5th and that's what happened. We

1 stopped at that point; right? You weren't required to answer
2 anymore questions; true?

3 THE WITNESS: Correct. And that's when we was
4 talking about go ahead and talk to an attorney, which I was
5 trying to do to verify something.

6 THE COURT: I understand. And in fact, that's
7 exactly what we did do is, we appointed a lawyer to represent
8 you under the Criminal Justice Act, Mr. Gary Proctor; true?

9 THE WITNESS: Yes, sir.

10 THE COURT: And Mr. Proctor has come to court and
11 has -- evidently, Mr. Proctor, you conferred with the Court;
12 is that true?

13 MR. PROCTOR: Yes, sir.

14 THE COURT: And then you conferred with counsel for
15 the government.

16 MR. PROCTOR: I did.

17 THE COURT: And then you had a private consultation
18 with your client; is that right?

19 MR. PROCTOR: Yes, sir.

20 THE COURT: Okay. So you've now had the opportunity
21 to consult with Mr. Proctor about this question of whether you
22 want to continue to assert your 5th Amendment right, whether
23 you want to continue to take the 5th, or whether you have
24 decided that, in fact, you're now prepared to continue to
25 testify and you do not wish to assert the 5th or take the 5th;

1 right?

2 THE WITNESS: Correct.

3 THE COURT: All right. You've had the opportunity
4 to talk with Mr. Proctor about all of that?

5 THE WITNESS: Right.

6 THE COURT: You know what your choices are; right?

7 THE WITNESS: Yes, sir.

8 THE COURT: Do you feel like you've had an adequate
9 opportunity to talk to Mr. Proctor?

10 THE WITNESS: Yes, sir.

11 THE COURT: Do you feel like you understand what
12 your rights are with respect to the 5th Amendment and anything
13 else that's of concern to you at the moment?

14 THE WITNESS: Yes, sir.

15 THE COURT: Knowing what those rights are and
16 feeling that you understand them and having had a sufficient
17 opportunity to talk with Mr. Proctor about it, are you now
18 prepared to tell the Court whether you continue to assert the
19 5th Amendment or whether you revise your position, that you do
20 not wish to take the 5th and instead you wish to continue to
21 testify?

22 THE WITNESS: I wish to not have the 5th and
23 continue to testify.

24 THE COURT: So you do not want to take the 5th.

25 THE WITNESS: No, sir.

1 THE COURT: And you want to keep right on
2 testifying.

3 THE WITNESS: Correct.

4 THE COURT: And you're not going to decline to
5 answer questions.

6 THE WITNESS: Correct.

7 THE COURT: On the grounds that -- okay. Very good.
8 I'm satisfied. And Mr. Caesar, you are excused for the day.
9 You're required to return here tomorrow morning at 9:30 to
10 continue your appearance here in court. Do you understand
11 that?

12 THE WITNESS: Yes, sir.

13 THE COURT: Okay. You are excused until then and
14 you may depart.

15 THE WITNESS: Thank you, Your Honor.

16 THE COURT: Mr. Proctor, are you able to be here
17 tomorrow?

18 MR. PROCTOR: Yes, sir, I am.

19 THE COURT: You will join us also at 9:30.

20 MR. PROCTOR: Yes, sir.

21 THE COURT: You're excused until then. Thank you,
22 Mr. Proctor.

23 Okay. So where are we, Mr. Martinez? We'll start
24 at 9:30.

25 MR. MARTINEZ: We'll start at 9:30. I don't know

1 how much more Mr. Bussard has for --

2 THE COURT: How much more do you think you've got?

3 MR. BUSSARD: Half hour.

4 THE COURT: Half an hour.

5 MR. BUSSARD: Something, give or take, not -- it's
6 not going to take up the whole morning.

7 THE COURT: Yeah, okay. Mr. Francomano.

8 MR. FRANCOMANO: If anything, it's not going to be
9 long.

10 THE COURT: Okay. Some redirect.

11 MR. MARTINEZ: We'll have Detective Taylor here, I
12 believe -- Detective Hunter -- were both involved in murder.
13 And we had planned to start -- or actually, it had been our
14 hope to get all the way through another civilian witness whose
15 identity has been disclosed to counsel, but given the law
16 enforcement witnesses we have at the beginning of the day, I
17 think we need to huddle amongst ourselves knowing that there's
18 going to be a ten-day break, whether or not we want to put
19 that person on.

20 THE COURT: Have them make it halfway.

21 MR. MARTINEZ: Have them make it halfway and wait
22 until the 18th to continue. So if there are moving pieces, it
23 would involve not calling that person and subbing in two or
24 three law enforcement officers in his stead. What we need to
25 discuss amongst ourselves are the people we're prepared to do

1 that with.

2 THE COURT: All right. That's a helpful glimpse of
3 what lies ahead. Anything else from the government that we
4 can productively address this afternoon?

5 MR. MARTINEZ: Just a question and that also relates
6 to scheduling. Did I understand correctly from the Court's
7 calendar that there's a 4:00 o'clock proceeding tomorrow?

8 THE COURT: Let's check that, what is it?

9 THE CLERK: It's a 4:00 sentencing, Judge.

10 THE COURT: Is it an 084 or -- 085?

11 THE CLERK: I'm sorry.

12 THE COURT: I mean a 484, 485 case?

13 THE CLERK: Yes.

14 THE COURT: We'll move that back to 4:45. So please
15 advise Ms. Cusatis that I just so determined and an order
16 should go out immediately postponing that until 4:45.

17 MR. MARTINEZ: Nothing further from us.

18 THE COURT: How about on the defense side?

19 MR. BUSSARD: No, Your Honor. I -- the only thing I
20 might suggest, I might be the only one who doesn't go back to
21 the office once I go tonight, I believe, so when I get e-mails
22 saying there's a witness coming, I don't have my files with me
23 again.

24 THE COURT: Well, I guess you better bring a lot of
25 files, there's a lot of possibilities.

1 MR. BUSSARD: I might need two carts tomorrow.

2 THE COURT: The government has, I think, given a
3 pretty good indication what the possibilities are.
4 Mr. Francomano.

5 MR. FRANCOMANO: Nothing, Your Honor.

6 THE COURT: Defendants are remanded to the custody
7 of the Marshal. Counsel are excused. Court's in recess until
8 9:30 tomorrow morning.

9 (The proceedings were concluded.)

10 I, Christine Asif, RPR, FCRR, do hereby certify that
11 the foregoing is a correct transcript from the stenographic
12 record of proceedings in the above-entitled matter.

13 _____/s/_____
14 Christine T. Asif
15 Official Court Reporter
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